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# Investigative Federal Report



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THE PARTIAL FRACTIONAL DECOMPOSITION

The partial fraction decomposition of a rational function is a technique for expressing a rational function as a sum of simpler fractions. This technique is particularly useful in the integration of rational functions.	
Consider the rational function $\frac{P(x)}{Q(x)}$ , where $P(x)$ and $Q(x)$ are polynomials. The first step in the partial fraction decomposition is to perform polynomial long division if the degree of $P(x)$ is greater than or equal to the degree of $Q(x)$ .	
If the degree of $P(x)$ is less than the degree of $Q(x)$ , the next step is to factor the denominator $Q(x)$ into a product of linear and irreducible quadratic factors.	
For each linear factor $(x - a)^k$ in the denominator, there will be $k$ terms in the partial fraction decomposition of the form $\frac{A_1}{x - a} + \frac{A_2}{(x - a)^2} + \dots + \frac{A_k}{(x - a)^k}$ .	
For each irreducible quadratic factor $(x^2 + px + q)^k$ in the denominator, there will be $k$ terms in the partial fraction decomposition of the form $\frac{B_1x + C_1}{x^2 + px + q} + \frac{B_2x + C_2}{(x^2 + px + q)^2} + \dots + \frac{B_kx + C_k}{(x^2 + px + q)^k}$ .	
The partial fraction decomposition is then found by equating the original rational function to the sum of these partial fractions and solving for the coefficients $A_i$ and $B_i, C_i$ .	
This technique is a fundamental tool in the study of rational functions and is widely used in calculus and algebra.	



# Presidential Documents

Title 3—

The President

Presidential Determination No. 87-20 of September 23, 1987

## New Foreign Policy Export Controls on Iran

### Memorandum for the Secretary of Commerce

Pursuant to Section 6(m) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2405(m)) (the "Act"), I hereby determine and certify that:

a) The Iran/Iraq war, together with Iran's intransigent attitude against peaceful resolution of that conflict and Iran's on-going support of acts of international terrorism, have resulted in a breach of peace posing a serious and direct threat to the strategic interests of the United States. Hostile Iranian policies and actions directed against vessels of neutral nations in the Persian Gulf have heightened the seriousness of that threat;

b) Iran has purchased a large shipment of U.S.-origin SCUBA gear in the United States;

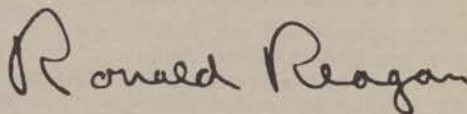
c) Available information indicates that this type of equipment will be diverted to military use by Iran in attacks on oil rigs and possibly shipping or in support of other terrorist or military actions;

d) Prohibition of such shipments of equipment will be instrumental in remedying the direct threat posed by the use of this equipment against U.S. interests in the region and in our effort to persuade other potential sources of similar equipment to likewise prohibit its transfer to Iran; and

e) This export control shall remain in effect only so long as Iranian hostile actions and policy continue to pose a direct threat to U.S. strategic interests in the region.

You are hereby authorized and directed to report to Congress this determination and the report required under Section 6(f) of the Act. Based on the above determination, I am exercising my power under Section 6(m) of the Act to extend foreign policy controls to cover exports or reexports of SCUBA gear to Iran that are either in performance of a contract or agreement entered into prior to the date of the report of the Secretary of Commerce of his intent to impose such control or that are under a validated license or other authorization issued under the Act.

This determination shall be published in the **Federal Register**.



THE WHITE HOUSE,  
Washington, September 23, 1987.

# Presidential Documents

Presidential Documents, the 42nd of January, 1977

The Foreign Policy Report, January 1977

Memorandum for the President of the United States

The President of the United States has received a report from the Secretary of State, dated January 19, 1977, regarding the situation in the Middle East. The report states that the situation is still unstable and that there is a need for continued vigilance. The President has reviewed the report and has decided to continue the current policy of support for the State of Israel.

The President has also received a report from the Secretary of State, dated January 19, 1977, regarding the situation in the Middle East. The report states that the situation is still unstable and that there is a need for continued vigilance. The President has reviewed the report and has decided to continue the current policy of support for the State of Israel.

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*[Handwritten signature]*



# Rules and Regulations

Federal Register

Vol. 52, No. 190

Thursday, October 1, 1987

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 545, 552, 561, 563, 563b, and 584

[No. 87-1012]

### Miscellaneous Technical Amendments

September 24, 1987.

**AGENCY:** Federal Home Loan Bank Board.

**ACTION:** Final rule; miscellaneous technical amendments.

**SUMMARY:** The Federal Home Loan Bank Board ("Board") is amending its regulations in order to remove obsolete and incorrect references within its regulations and to correct typographical and other technical errors contained in the Board's regulations.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Carol J. Rosa, Paralegal Specialist, Regulations and Legislation Division, Office of General Counsel, (202) 377-7037, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

**SUPPLEMENTARY INFORMATION:** Pursuant to 12 CFR 508.11 and 508.14, the Board finds that, because of the minor, technical nature of these corrective amendments, notice and public procedure are unnecessary, as is the 30-day delay of the effective date.

**List of Subjects in 12 CFR Parts 545, 552, 561, 563, 563b, and 584**

Accounting, Bank deposit insurance, Consumer protection, Credit, Electronic funds transfers, Holding companies, Investments, Manufactured homes, Mortgages, Reporting and recordkeeping requirements, Savings and loan associations, Securities.

Accordingly, the Board hereby amends Parts 545 and 552, Subchapter C, Parts 561, 563 and 563b, Subchapter

D, and Part 584, Subchapter F, Chapter V, Title 12, Code of Federal Regulations, as set forth below.

### SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

#### PART 545—OPERATIONS

1. The authority citation for Part 545 continues to read as follows:

**Authority:** Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 402-403, 407, 48 Stat. 1256-1257, 1260, as amended (12 U.S.C. 1725-1726, 1730); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.

#### § 545.3 [Reserved]

2. Amend Part 545 by removing § 545.3 and reserving the section designation for future use.

3. In the Federal Register of Monday, March 9, 1987, at page 7122, in the second column, remove amendatory instruction #20 which incorrectly amended § 545.74(d)(4).

### PART 552—INCORPORATION, ORGANIZATION, AND CONVERSION OF FEDERAL STOCK ASSOCIATIONS

4. The authority citation for Part 552 continues to read as follows:

**Authority:** Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401-403, 405-407, 48 Stat. 1255-1257, 1259-1260, as amended (12 U.S.C. 1724-1726, 1728-1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-1948 Comp., p. 1071.

5. In the Federal Register of Monday, March 9, 1987, at page 7122, in the second column, remove amendatory instruction #24 which incorrectly amended § 552.2-2(d).

### SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

#### PART 561—DEFINITIONS

6. The authority citation for Part 561 continues to read as follows:

**Authority:** Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128,

as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401-407, 48 Stat. 1255-1260, as amended (12 U.S.C. 1724-1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-1948 Comp., p. 1071.

#### § 561.8 [Amended]

7. Amend § 561.8(b) by correcting the reference to "§ 563.13(g)(5)(i)" to read "§ 563.13(b)(4)(ii)(A)".

#### § 561.15 [Amended]

8. In the Federal Register of Monday, March 9, 1987, at page 7123, in the first column, in amendatory instruction 37, to § 561.15, in the amendment to paragraph (j)(1), in the eighth line, "§ 545.45(a)(1)" (the letter l) should read "§ 545.45(a) (1)" (the number one).

### PART 563—OPERATIONS

9. The authority citation for Part 563 continues to read as follows:

**Authority:** Sec. 1, 47 Stat. 725, as amended (12 U.S.C. 1421 *et seq.*); sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 5B, 47 Stat. 727, as added by sec. 4, 80 Stat. 824, as amended (12 U.S.C. 1425b); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401-407, 48 Stat. 1255-1260, as amended (12 U.S.C. 1724-1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-1948 Comp., p. 1071.

#### § 563.31 [Amended]

10. Amend § 563.31(b)(1) by adding the word "and" after the semicolon at the end of the paragraph.

### PART 563b—CONVERSIONS FROM MUTUAL TO STOCK FORM

11. The authority citation for Part 563b is revised to read as follows:

**Authority:** Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); secs. 2, 5, 48 Stat. 128, 132, as amended (12 U.S.C. 1462, 1464); secs. 401-403, 405-407, 48 Stat. 1255-1257, 1259-1260, as amended (12 U.S.C. 1724-1726, 1728-1730); sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); secs. 3, 12-14, 23, Stat. 882, 892, 48894-895, 901, as amended (15 U.S.C. 78c, 1-n, w); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-1948 Comp., p. 1071.

12. Amend § 563b.101 Item 7 by revising the first sentence of paragraph (c)(1)(C) to read as follows:



## § 563b.101 Form PS-Proxy Statements.

## Item 7. Business of the applicant

(c) *Management's discussion and analysis of financial condition and results of operation.* (1) \* \* \*

(C) *Results of operations.* (i) Describe any unusual or infrequent events or transactions or any significant economic changes that materially affected the amount or reported income from continuing operations and, in each case, indicate the extent to which income was affected. \* \* \*

## SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

## PART 584—REGULATED ACTIVITIES

13. The authority citation for Part 584 continues to read as follows:

**Authority:** Sec. 5A, 47 Stat. 727, as added by sec. 1, 64 Stat. 256, as amended (12 U.S.C. 1425a); sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); secs. 401–403, 405–407, 48 Stat. 1255–1257, 1259–1260, as amended (12 U.S.C. 1724–1726, 1728–1730; sec. 408, 82 Stat. 5, as amended (12 U.S.C. 1730a); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943–1948 Comp., p. 1071.

14. Amend § 584.1 by revising paragraph (a)(4) to read as follows:

## § 584.1 Registration, examination and reports.

(a) *Filing of registration statements and other reports.*— \* \* \*

(4) *General.* Registration statements, annual reports, and the H-(b)12 are filed with the Corporation by transmitting the original and requisite number of copies enumerated on the report to the Director, Office of Regulatory Policy, Oversight and Supervision; Federal Home Loan Bank System, 1700 G Street, NW., Washington, DC 20552, and by submitting the requisite number of copies to the Supervisory agent. Copies of forms to be used in submitting registration statements, annual reports, and the H-(b)12 may be obtained from any Supervisory Agent.

By the Federal Home Loan Bank Board.  
John F. Ghizzoni,  
Assistant Secretary.

[FR Doc. 87-22549 Filed 9-30-87; 8:45 am]

BILLING CODE 6720-01-M

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

[Docket No. 86-NM-211-AD; Amdt. 39-5736]

## Airworthiness Directives; Airbus Industrie

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 B2 and B4 series airplanes, which requires inspections and replacement, if necessary, of certain flap ball screwjack no-back assemblies. This amendment is prompted by reports of excessive wear of the carbon friction discs in the screwjack no-back assemblies. This condition, if not corrected, could result in the screwjack becoming reversible and could lead to an asymmetrical flap condition in the event of a flap transmission shaft failure, which could cause a partial loss of controllability of the airplane.

**EFFECTIVE DATE:** November 3, 1987.

**ADDRESSES:** The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Ms. Judy Golder, Standardization Branch, ANM-113; telephone (206) 431-1967. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

**SUPPLEMENTARY INFORMATION:** A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive, which requires a jackhead backlash check to determine no-back condition, and describes procedures for flap screwjack replacement, if necessary, on certain Airbus Model A300 B2 and B4 series airplanes, was published in the *Federal Register* on November 26, 1986 (51 FR 42850).

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

The Air Transport Association (ATA) of America supported the proposal.

The manufacturer recommended acceleration of the initial compliance time for certain airplanes. The FAA has considered this recommendation, but has determined that such an action would be beyond the scope of this AD. The FAA may consider further rulemaking to address this change in compliance time for certain affected airplanes.

The manufacturer also recommended several editorial changes to clarify the description of the failure mode and certain wording in the preamble to the notice. The FAA concurs with the changes and, where appropriate, the final rule has been revised accordingly.

After careful review of the available data, including the comments listed above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes mentioned above.

It is estimated that 34 airplanes of U.S. registry will be affected by this AD, that it will take approximately 51 manhours per airplane to accomplish the required actions, and that the average labor cost will be \$40 per manhour. Based on these figures, the total cost impact of this AD to U.S. operators is estimated to be \$69,360.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Airbus Industrie Model A300 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

## List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

## Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

## PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

**Authority:** 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.



**§ 39.13 [Amended]**

2. By adding the following new airworthiness directives:

**Airbus Industrie:** Applies to Model A300 B2 and B4 series airplanes, certificated in any category, equipped with the flap ball screwjack no-back mechanisms, listed in Airbus Industrie Service Bulletin A300-27-172, dated April 10, 1984, which have not been modified in accordance with Modification A1 5240 as described in Airbus Industrie Service Bulletin A300-27-173, dated May 2, 1984. Compliance required as indicated, unless previously accomplished.

To prevent excessive wear of the carbon friction disc of the no-back assemblies which could lead to an asymmetric flap condition in the event of flap transmission shaft failure, accomplish the following:

A. Prior to the accumulation of 13,000 landings or within the next 1,000 landings after the effective date of this AD, whichever occurs later, perform a jackhead axial backlash measurement on affected flap ball screwjacks in accordance with the accomplishment instructions of Airbus Industrie Service Bulletin A300-27-172, dated April 10, 1984.

B. Repeat the measurement required by paragraph A., above, at the following intervals:

1. If the backlash is less than or equal to 0.331 mm, prior to 3,000 landings after the last measurement.

2. If the backlash is more than 0.31 mm but less than or equal to 0.407 mm, prior to 2,000 landings after the last measurement.

3. If the backlash is more than 0.407 mm, but less than 0.560 mm, prior to 1,000 landings after the last measurement.

C. Replace the flap ball screwjack within the next 20 landings when a measurement required by paragraph A. or B., above, indicates the backlash is greater than or equal to 0.560 mm.

D. Incorporation of Airbus Industrie Modification 5240, described in Airbus Industrie Service Bulletin A300-27-173, dated May 2, 1984, constitutes terminating action for the requirements of this AD.

E. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Northwest Mountain Region.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of the modifications required by this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft

Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective: November 3, 1987.

Issued in Seattle, Washington, on September 17, 1987.

**Frederick M. Isaac,**

*Acting Director, Northwest Mountain Region.*

[FR Doc. 87-22721 Filed 9-30-87; 8:45 am]

**BILLING CODE 4910-13-M**

**14 CFR Part 39**

[Docket No. 87-CE-16-AD; Amdt. 39-5739]

**Airworthiness Directives; Piper**

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment adopts a new Airworthiness Directive (AD), applicable to certain Piper Models PA-31, PA-31-300, PA-31-325, PA-31-350, PA-31P, PA-31P-350, PA-60-600, PA-60-601, PA-60-601P, PA-60-602P and PA-60-700P airplanes, equipped with reciprocating engines herein referred to as "PA-31 and PA-60 Series" airplanes. This AD requires the modification of the fuel filler ports to prevent inadvertent filling of the fuel tanks with jet fuel. The NTSB has reported eight accidents where airplane misfueling was found to have contributed to the accidents. The modification is necessary to prevent further misfueling and thereby preclude inflight engine failure.

**DATES:** *Effective Date:* November 2, 1987.

*Compliance:* As prescribed in the body of the AD.

**ADDRESSES:** Piper Aircraft Corporation Service Bulletin No. 797B, dated September 1, 1987, applicable to this AD may be obtained from Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; Telephone (305) 567-4366. This information may be examined in the Rules Docket, Federal Aviation Administration, Central Region, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

**FOR FURTHER INFORMATION CONTACT:**

Mr. Robert R. Goodall, Aerospace Engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, FAA, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; Telephone (404) 991-3810.

**SUPPLEMENTARY INFORMATION:**

A proposal to amend Part 39 of the Federal Aviation Regulations to include an AD requiring the modification of the fuel filler ports to prevent inadvertent filling

of the fuel tanks with jet fuel on certain Piper "PA-31 and PA-60 Series" airplanes equipped with reciprocating engines was published in the **Federal Register** on June 8, 1987 (52 FR 21575). This proposal resulted from a recommendation by the NTSB reporting that there have been eight accidents as a result of inflight engine failure of Piper Aircraft Corporation Model PA-31 and PA-60 series airplanes with reciprocating engines in which misfueling with jet fuel was the cause. Further, the NTSB indicates that most cases of misfueling occur with light, twin-engine, piston-powered airplanes which are similar in appearance to turbine engine-powered airplanes. In recent years, the frequency of accidents involving misfueling with jet fuel has increased significantly despite efforts of the FAA and other interested parties. On September 17, 1982, and October 5, 1984, the FAA issued two Advisory Circular (AC) Nos. 20-116 and 20-122, "Marking Aircraft Fuel Filler Openings with Color Coded Decals," and "Anti-Misfueling Devices: Their Availability and Uses." Both recommend methods to prevent airplane misfueling. However, the level of response to these AC's appears low considering the nature of the problem and the number of airplanes involved. Therefore, in the interest of aviation safety, the modification of the fuel filler ports, recommended by the NTSB was proposed as a new Airworthiness Directive.

Interested persons have been afforded an opportunity to comment on the proposal. Due consideration has been given to the eleven comments received. Nine comments were in favor of the proposal. Several of these nine commenters suggested that other manufacturers' airplanes be added, which is beyond the scope of this rulemaking action. One additional commenter only concurred with the PA-31 Series airplanes being contained in the AD. He felt that since there are no turbine powered variants of the PA-60 Series airplanes and, according to him, only two misfueling accidents involving this airplane series have occurred since its production in 1969, its inclusion is not warranted. The FAA has determined that the service experience for the PA-60 series has been shown to warrant inclusion of this model airplane. The only commenter that disagreed totally with the proposal suggested that it was his belief that the government cannot legislate safety but that safety can be taught through the use of Fuel Training Seminars which he has developed. The FAA disagrees based on the adverse service experience that indicates



additional positive actions are necessary. Although well trained personnel should be the goal of all fueling facilities, it is not the only avenue to safe fueling that should be pursued. The FAA has determined that it is appropriate to require installation of fuel filler port restrictors on Piper PA-31 and PA-60 series airplanes.

Only one comment was received on the cost determination. In early 1986, the General Aviation Manufacturers Association petitioned the FAA to require that fueling ports in piston powered civil airplanes be restricted to less than 2.5 inches in diameter. In that petition, GAMA estimated the cost of the restrictor kit to be about \$35 per fuel filler port. However, Piper's Service Bulletin No. 797A issued in April of 1985 listed the availability of their kits which averaged in cost from \$35 to \$93 per fuel filler port. Piper has decided to sell all the kits that they have in stock at the price listed on this Service Bulletin. However, as their stock is depleted and Piper must reorder their stock, the FAA has been advised that prices will increase to a range of \$37.25 to \$103.50 per fuel filler port depending upon the model of airplane. In addition, the FAA has been advised that since the NPRM was issued, the number of Piper airplanes involved has been revised to a lower number. Therefore, the final rule has been changed to reflect these increased costs and the reduction of the number of airplanes involved. However, this has not affected the FAA's certification that this rule is not a major or significant rule nor one which will have a significant economic impact on a substantial number of small entities.

Finally, one editorial change was made by listing the latest revision to the Piper Service Bulletin.

Therefore, after careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the following rule with the changes previously noted. The FAA has determined there are approximately 5400 airplanes affected by this AD. The estimated cost of modifying these airplanes depends on the number of fuel filler caps on the airplane. PA-31 series airplanes can have either two, four or six fuel ports. The approximate cost per fuel port for these airplanes to comply with this AD is \$37.50, except for Model PA-31P-350 airplanes which is \$103.50 per port. Most PA-60 series airplanes have three fuel ports but some are equipped with four. The approximate cost per fuel port for these airplanes to comply with this AD is \$69. The approximate total cost to

modify the fleet would be \$894,000. The cost of complying with this AD therefore will not have a significant financial impact on any small entities owning affected airplanes.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the FAR as follows:

#### PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. By adding the following new AD:

**Piper:** Applies to Models PA-31, PA-31-300, PA-31-325 (SN 31-1 thru 31-8312019), PA-31-350 (S/N 31-5001 thru 31-8452021), PA-31-350 (T1020) (S/N 31-8253001 thru 31-8553002), PA-31P (S/N 31P-1 thru 31P-7730012), PA-31P-350 (S/N 31P-8414001 thru 31P-8414050), PA-60-600, PA-60-601, PA-60-601P, PA-60-602P, PA-60-700P, (all S/N's) airplanes equipped with reciprocating engines certificated in any category.

Compliance: Required as indicated, unless already accomplished. To preclude misfueling of the airplane resulting in engine failure, accomplish the following:

(a) Within the next 12 calendar months after the effective date of this AD, unless already accomplished, modify the fuel filler opening(s) in accordance with the instructions contained in Piper Aircraft Corporation Service Bulletin No. 797B, dated September 1, 1987.

**Note.**—This AD does not apply to the PA-23-250 (Aztec F) or the PA-36 (Brave) which are also listed in Piper Service Bulletin No. 797B.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) In accordance with FAR Part 43, Appendix A, item (c) 29, the modifications required by this AD are preventative maintenance and may be performed by the holder of a pilot certificate issued under FAR Part 61 on airplanes owned or operated by him, subject to the limitations of FAR 43.3(g). The maintenance record entries required by FAR 43.9 and FAR 91.173 must be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Atlanta Aircraft Certification Office, ACE-115A, Federal Aviation Administration, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349.

All persons affected by this directive may obtain copies of the document(s) referred to herein upon request to Piper Aircraft Corporation, 2926 Piper Drive, Vero Beach, Florida 32960; or may examine the document(s) referred to herein at the FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

This amendment becomes effective on November 2, 1987.

Issued in Kansas City, Missouri, on September 17, 1987.

Jerold M. Chavkin,

Acting Director, Central Region.

[FR Doc. 87-22722 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 87-ANE-22; Amendment 39-5732]

#### Airworthiness Directives; Teledyne Continental Motors

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This action publishes in the Federal Register and makes effective as to all persons an amendment adopting a new airworthiness directive (AD) which was previously made effective as to all known U.S. owners and operators of certain TCM IO-520, IO-550, and TSIO-520 series engines by individual priority letters. The AD requires inspection of the starter adapter shaftgear, possible replacement of the starter adapter assembly, and the return to service of the air conditioner in all affected airplanes. The AD is needed to publish as a final rule priority letter AD 87-14-02, which superseded priority letter AD 87-12-12, the combination of which (a) requires the removal of the freon compressor drive belt on Piper PA 46-310P airplanes, (b) includes engines with freon compressors installed in Beech Bonanza and Baron airplanes, (c) replaces the starter adapter assembly in



certain of these airplanes, and (d) allows return of the air conditioner to service in all affected airplanes.

**DATES: Effective Date:** October 5, 1987, as to all persons except those persons to whom it was made immediately effective by priority letter AD No. 87-14-02, issued July 8, 1987, which contained this amendment.

**Compliance schedule:** As prescribed in the body of the AD.

**ADDRESSES:** The applicable service bulletin may be obtained from Teledyne Continental Motors, P.O. Box 90, Mobile, Alabama 36601, or may be examined in the Regional Rules Docket, Room 311, Federal Aviation Administration, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, Massachusetts 01803.

**FOR FURTHER INFORMATION CONTACT:** Jerry C. Robinette, Aerospace Engineer, Propulsion Branch, ACE-140A, Atlanta Aircraft Certification Office, Federal Aviation Administration, Central Region, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349; telephone (404) 991-3810.

**SUPPLEMENTARY INFORMATION:** On July 8, 1987, priority letter AD No. 87-14-02 was issued and made effective immediately as to all known U.S. owners and operators of certain TCM IO-520, IO-550, and TSIO-520 series engines. The AD requires inspection of the starter adapter shaftgear, possible replacement of the starter adapter assembly, and allow the return to service of the air conditioner in all affected airplanes. AD action was necessary to: (a) Supersede priority letter AD 87-12-12 which requires the removal of the freon compressor drive belt on Piper PA-46-310P airplanes, (b) include engines with freon compressors installed in Beech Bonanza and Baron airplanes, (c) replace the starter adapter assembly in certain of these airplanes, and (d) allow return of the air conditioner to service in all affected airplanes.

Since it was found that immediate corrective action was necessary, notice and public procedure thereon were impracticable and contrary to public interest, and good cause existed to make the AD effective immediately by individual priority letters issued July 8, 1987, to all known U.S. owners and operators of certain TCM IO-520, IO-550, and TSIO-520 series engines. These conditions still exist and the AD is hereby published in the Federal Register as an amendment to § 39.13 of Part 39 of the Federal Aviation Regulations to make it effective as to all persons.

The FAA has determined that this regulation is an emergency regulation

that is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant/major regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation or analysis is not required). A copy of it, when filed, may be obtained from the Regional Rules Docket.

#### List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Engines, Safety.

#### Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration amends Part 39 of the Federal Aviation Regulations as follows:

#### PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421, and 1423; 49 U.S.C. 106 (g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

#### § 39.13 [Amended]

2. By adding the following new airworthiness directive (AD):

**Teledyne Continental Motors (TCM):** Applies to IO-520, IO-550, and TSIO-520 series engines with starter adapter shaftgear P/N 649343, a freon compressor, and 25 hours or less time in service installed on the following engines:

	Serial Numbers
New	
IO-520BB	S/N 578239 thru 578250, 578255 thru 578261, 578271, 578272.
IO-550B	S/N 675329, 675330, 675334 thru 675336.
TSIO-520UB	S/N 527091, 527093.
TSIO-520BE	S/N 528383, 528389.
Rebuilt Engines:	
IO-520BA	S/N 249568 thru 249570, 249588 thru 249593.
IO-520BB	S/N 248585, 248586, 274505 thru 274520, 274522 thru 274526, 274529, 274532, 274536, 274537, 274540, 274544, 274545, 274549, 274550, 274552, 274554.

	Serial Numbers
New	
IO-550B	S/N 249124 thru 249130, 249132.
TSIO-520UB	S/N 248867, 248869.
TSIO-520LB	S/N 237242, 237244, 237247, 241909, 241910.
TSIO-520WB	S/N 274004 thru 274008, 274012 thru 274018.
TSIO-520BE	S/N 273505 thru 273510.

Compliance is required before further flight unless already accomplished.

To prevent possible starter adapter shaftgear failure, which could result in loss of lubricating oil and subsequent complete loss of engine power, accomplish the following:

(a) Determine if the installed engine(s) has a freon compressor installed.

(1) If no freon compressor is installed, no further action is required, proceed to Paragraph (f).

(b) Engines in compliance with priority letter AD 87-12-12, but not included in the engine serial numbers listed in this AD, may re-install the air conditioner drive belt. Proceed to Paragraph (f).

(c) Determine the time in service of the starter adapter shaftgear P/N 649343 for each installed engine. If the time in service is greater than 25 hours with the freon compressor drive belt installed, no further action is required. Proceed to Paragraph (f). If the time in service is less than 25 hours, accomplish Paragraphs (d) or (e) as applicable.

(d) If the engine was new when installed, remove the starter adapter assembly P/N 642087, and return to the manufacturer for replacement. Install the replacement assembly, and proceed to Paragraph (f).

(e) If the installed engine is a rebuilt engine, gain access to the drive sheave mounted on the rear of the starter adapter shaftgear. Determine, using a light and mirror, if the drive sheave attaching nut is castellated.

(1) If the nut is castellated with a cotter key installed, no further action is required, proceed to Paragraph (f).

(2) If a steel lock nut is installed, inspect the center of the shaft to determine if the shaft has drilled cotter key holes (see TCM Service Bulletin M87-13, dated 29 June 1987, Figure 1).

(i) If the shaft has drilled holes, no further action is required, proceed to Paragraph (f).

(ii) If the shaft is undrilled, remove the starter adapter assembly P/N 642087 and return to the manufacturer for replacement. Install the replacement assembly.

(f) Make appropriate logbook entry showing compliance with this AD.

Notes: 1. Contact TCM for shipping instructions.

2. When replacing the starter adapter assembly, retain the drive sheave for re-installation on new assembly.

3. TCM Service Bulletin M87-13, dated 29 June 1987, refers to this subject.

Upon request, an equivalent means of compliance with the requirements of this AD



may be approved by the Manager, Atlanta Aircraft Certification Office, Federal Aviation Administration, Central Region, 1669 Phoenix Parkway, Suite 210, Atlanta, Georgia 30349.

This amendment becomes effective October 5, 1987, as to all persons except those persons to whom it was made immediately effective by priority letter AD No. 87-14-02, issued July 8, 1987, which contained this amendment.

Issued in Burlington, Massachusetts, on September 14, 1987.

Robert E. Whittington,

Director, New England Region.

[FR Doc. 87-22723 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-13-W

## DEPARTMENT OF COMMERCE

### International Trade Administration

#### 15 CFR Parts 385 and 399

[Docket No. 70988-7188]

#### Foreign Policy Controls on Exports to Iran of Scuba Equipment

**AGENCY:** Export Administration, International Trade Administration, Commerce.

**ACTION:** Final rule.

**SUMMARY:** In light of the threat to U.S. interests from the risk that the Government of Iran will conduct or support underwater attacks against shipping or installations in the Persian Gulf and elsewhere, this rule imposes a validated license requirement on exports to Iran of self-contained underwater breathing apparatus (scuba gear) and related equipment.

This regulation is issued in consultation with the Department of State and in compliance with the requirements of the Export Administration Act of 1979, as amended, 50 U.S.C. app. 2401 *et seq.* (the Act). Section 6 of the Act requires that a report be submitted to Congress whenever new foreign policy export controls are imposed; such a report was submitted by the Acting Secretary of Commerce on September 25, 1987. On September 23, 1987, the President made a determination and certification to the Congress under section 6(m) of the Act that permits this new control to be applied to shipments under preexisting contracts and to shipments that had previously been covered by a validated license or other authorization issued under the Act.

**EFFECTIVE DATE:** This rule is effective October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Joan Sitnik, Country Policy, Office of

Technology and Policy Analysis, Telephone: (202) 377-4830.

#### SUPPLEMENTARY INFORMATION:

##### Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. app. 2412(a)) exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to Vincent Greenwald, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553), or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule contains a collection of information subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection of information has been approved by the Office of Management and Budget under control number 0625-0001.

#### List of Subjects in 15 CFR Parts 385 and 399

Communist countries, Exports.

Accordingly, the Export Administration Regulations (15 CFR Parts 385-399) are amended as follows:

#### PARTS 385 AND 399—[AMENDED]

1. The authority citation for Parts 385 and 399 continues to read as follows:

Authority: Pub. L. 96-72, 93 Stat. 503 (50 U.S.C. app. 2401 *et seq.*), as amended by Pub. L. 97-145 of December 29, 1981 and by Pub. L. 99-64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95-223 of December 28, 1977 (50 U.S.C. 1701 *et seq.*); E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985) as affected by notice of September 4, 1986 (51 FR 31925, September 8, 1986); Pub. L. 99-440 of October 2, 1986 (22 U.S.C. 5001 *et seq.*); and E.O. 12571 of October 27, 1986 (51 FR 39505, October 29, 1986).

2. Section 385.4 is amended by designating the text following the italic heading as paragraph (e)(1); newly designated paragraph (e)(1) is amended by adding a heading before the first sentence; and adding a paragraph (e)(2), as follows:

#### § 385.4 Country Group T and V.

(e) *Iran, Iraq, and Syria.* \* \* \*

(1) *Restrictions on exports of chemicals to Iran, Iraq, and Syria.* \* \* \*

(2) Restrictions on exports of self-contained underwater breathing apparatus to Iran. In support of U.S. foreign policy concerns, a validated license is required for the export to Iran of self-contained underwater breathing apparatus and related equipment, including the equipment listed in CCL entry 5398F, all of which is herein referred to as scuba gear. Applications for export to Iran of commodities subject to these controls will generally be denied.

#### § 399.1 [Amended]

3. In Supplement No. 1 to § 399.1 (the Commodity Control List), Commodity Group 3 (General Industrial Equipment), a new ECCN 5398F is added between ECCN 1391A and 6398G, reading as follows:

**5398F Self-contained underwater breathing apparatus (scuba gear) and related equipment.**

**Controls for ECCN 5398F**

**Unit:** Report in "\$ value."

**Validated License Required:** Country Groups S and Z and Iran.

**GLV \$ Value Limit:** \$0.

**Processing Code:** TE.

**Reason for Control:** Foreign policy.

**Special Licenses Available:** None.

List of Equipment Controlled by ECCN 5398F Self-contained underwater breathing apparatus (scuba gear) and



related equipment, including, but not limited to, the following:

- (a) Self-contained underwater breathing apparatus (scuba gear);
- (b) Pressure regulators, air cylinders, hoses, valves and backpacks for the apparatus described in paragraph (a);
- (c) Life jackets, inflation cartridges, compasses, wetsuits, masks, fins, weight belts, and dive computers;
- (d) Underwater lights and propulsion equipment; and
- (e) Air compressors and filtration systems specially designed for filling air cylinders.

Dated: September 28, 1987.

Vincent F. DeCain,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 87-22655 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-DT-M

## DEPARTMENT OF THE TREASURY

### Customs Service

#### 19 CFR Part 101

[T.D. 87-123]

### Consolidation of Cleveland and Akron, OH, Ports of Entry; Designation of Akron, OH, as a Customs Station

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document consolidates the ports of entry of Cleveland and Akron, Ohio, and designates Akron as a Customs station. The consolidated port will be known as the Cleveland port of entry and be within the Cleveland District. The Akron Station will be supervised by the Cleveland Port. These changes will allow more efficient use of Customs personnel, facilities, and resources. This will be accomplished by transferring the administrative functions of the Akron Port to the Cleveland District Office, and by eliminating some positions from the Akron Port. The consolidated port boundaries consist of the total area within the existing boundaries of both ports.

**EFFECTIVE DATE:** November 2, 1987.

**FOR FURTHER INFORMATION CONTACT:** Bernie Harris, Office of Inspection and Control (202-566-9425).

#### SUPPLEMENTARY INFORMATION:

##### Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs

published a notice in the **Federal Register** on January 14, 1987 (52 FR 1470), requesting public comment on a proposal to amend §§ 101.3 and 101.4, Customs Regulations (19 CFR 101.3, 101.4), by consolidating the ports of entry of Cleveland and Akron, Ohio, and by designating Akron as a Customs station.

As explained in the notice, the proposal would permit relocation of the Akron Port administrative functions to the Cleveland District Office. The current Akron Port offices are located less than one hour's drive from the Cleveland District Office. The administrative staff at Akron is not currently fully utilized because of limited workload volume. The consolidated port boundary will consist of the total area within the existing boundaries of both ports. The Cleveland Port consists of all of Cuyahoga County, Ohio. The Akron Port consists of all of Summit County, Ohio, and Lake Township in Stark County, Ohio. The port consolidation will result in savings of approximately \$110,000 per year.

The staffing at the Akron Station will consist of two Customs inspectors, the same number currently assigned to the port. The positions of Port Director, Customs Aid, and Clerk Typist, will be eliminated. Elimination of these positions will have no immediate impact on any identifiable segment of the public; it is merely an administrative reorganization. Entry releases and entry summaries can still be filed at Akron.

#### Discussion of Comments

The primary concern raised in the few comments received in response to the notice was that the level of Customs service provided to the Akron area would decrease.

Customs does not agree with this prediction. The Akron workload does not currently justify the size of the assigned staff. Two inspectors will be able to provide an adequate level of service at this time. If the workload significantly increases, the staffing level can be increased.

Several commenters noted that the actions being considered might hurt Akron's changes in its efforts to obtain a Foreign Trade Zone (FTZ). Also, it was feared the effect of adopting the proposal would generally hurt the reputation of Akron as a business center.

Customs does not believe the consolidation of Akron into the Cleveland Port will hinder Akron's chances of obtaining an FTZ. As for any damage to Akron's reputation in the business community, that is a subjective assessment over which Customs has no

control. On Customs behalf, it can be stated that the actions being accomplished by this document in no way reflect any belief on Customs part that Akron is somehow undeserving of a singular port. Customs is merely making administrative changes to its field organization that will save the Federal government money and resources while leading to no decrease in Customs services to the Akron area.

Finally, in response to several comments, it is noted that no additional fees for services to importers at Akron will result from Akron's designation as a station.

#### Determination

After carefully analyzing the comments received, and further consideration of the matter, if has been determined to adopt the changes to the Customs field organization as proposed. The Cleveland port of entry consisting of all of Cuyahoga County, Ohio, and the Akron port of entry consisting of all of Summit County, Ohio, and Lake Township in Stark County, Ohio, are consolidated. Akron, Ohio, is designated as a Customs station.

#### Executive Order 12291 and Regulatory Flexibility Act

Because this document relates to agency organization it is not subject to E.O. 12291. Accordingly, a regulatory impact analysis and the review prescribed by that E.O. are not required. Similarly, this document is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Customs routinely makes adjustments to its field organization throughout the U.S. to accommodate the volume of Customs-related activity in various parts of the country. Although this amendment may have a limited effect upon some small entities in the areas affected, it is not expected to be significant because adjusting the field organization in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause, a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

#### Authority

These changes are made under the authority vested in the President by section of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2), and delegated to the Secretary of the Treasury by E.O. No. 10289, September 17, 1951 (3 CFR 1949-1953 Comp. Ch. II).



and pursuant to authority provided by Treasury Department Order No. 101-5, dated February 17, 1987 (52 FR 6282).

#### Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

#### List of Subjects in 19 CFR Part 101

Customs duties inspection, Imports, Organization and functions (Government agencies).

#### Amendments to the Regulations

### PART 101—GENERAL PROVISIONS

1. The authority citation for Part 101, Customs Regulations (19 CFR Part 101), continues to read as follows:

**Authority:** 5 U.S.C. 301, 19 U.S.C. 1, 66, 1202 (Gen. Hdnote. 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp.

#### § 101.3 [Amended]

2. To reflect the consolidation, the list of Customs regions, districts, and ports of entry in § 101.3(b) is amended by removing "77-232" from the "CLEVELAND, OHIO" listing in the "Ports of entry" column in the Cleveland, Ohio, Customs district of the North Central Region, and inserting, in its place "87-123".

3. Section 101.3(b) is further amended by removing the listing, "Akron, Ohio, E.O. 4597, Feb. 25, 1927, including the territory described in T.D. 77-732," from the "Ports of entry" column in the Cleveland, Ohio, Customs District of the North Central Region.

4. To reflect the designation of Akron, Ohio, as a Customs station, the list of Customs stations in § 101.4(c) is amended by inserting, in appropriate alphabetical order, in the listings for "Cleveland, Ohio" under the "District" column, "Akron, Ohio" in the column headed "Customs stations", and on the same line, "Cleveland, Ohio," in the column headed "Port of entry having supervision".

William von Raab,

Commissioner of Customs.

Approved: September 17, 1987.

John P. Simpson,

Acting Assistant Secretary of the Treasury.  
[FR Doc. 87-22661 Filed 9-30-87; 8:45 am]

BILLING CODE 4820-02-M

### PENSION BENEFIT GUARANTY CORPORATION

#### 29 CFR Parts 2610 and 2622

#### Late Premium Payments and Employer Liability Underpayments and Overpayments; Change in Interest Rate

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This amendment notifies the public of a change in the interest rate applicable to late premium payments and employer liability underpayments and overpayments beginning October 1, 1987. The interest rate is established by the Internal Revenue Service and is computed quarterly. This amendment is needed to notify pension plan administrators of the new interest rate.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** John Foster, Attorney, Corporate Policy and Regulations Department, Code 35100, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202-778-8850 (202-778-8859 for TTY and TDD). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** As part of Title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("PBGC") collects premiums from on-going plans to support the single-employer and multiemployer insurance programs. Under the single-employer program, the PBGC also collects employer liability from those persons described in ERISA section 4062(a). Under ERISA section 4007 and 29 CFR 2610.7, the interest rate to be charged on unpaid premiums is the rate established under section 6601 of the Internal Revenue Code ("Code"). Similarly, under 29 CFR 2622.7, the interest rate to be credited or charged with respect to overpayments or underpayments of employer liability is the section 6601 rate.

Section 6601(a) of the Code imposes interest on the underpayment of taxes at the "underpayment rate established under section 6621." Section 6621(a)(2) prescribes this rate: the sum of the short-term Federal rate (average interest rate on Federal securities with a maturity of three years or less) plus three percentage points. This rate is computed quarterly by the Internal Revenue Service.

On August 26, 1987, the Internal Revenue Service announced that for the calendar quarter beginning October 1, 1987, the interest charged on the

underpayment of taxes will be at the rate of ten percent. Accordingly, Appendix A to 29 CFR Part 2610 and Appendix A to 29 CFR Part 2622 are being amended to set forth this rate for the period beginning on October 1, 1987. This rate will be in effect for at least the three-month period ending on December 31, 1987, and will continue in effect after that time if the Internal Revenue Service, in its next quarterly review, determines that no change is needed.

The appendices to 29 CFR Part 2610 and 29 CFR Part 2622 do not prescribe the interest rates under these regulations; the rates prescribed by those parts are the rates found in Section 6601(a) of the Code. The appendices merely collect and republish the rates in a convenient place. Thus, the interest rates in the appendices are informational only. Accordingly, the PBGC finds that notice of and public comment on these amendments would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making these amendments effective immediately.

The PBGC has determined that neither of these amendments is a "major rule" within the meaning of Executive Order 12291, because they will not have an annual effect on the economy of \$100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for these amendments, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

#### List of Subjects

##### 29 CFR Part 2610

Employee benefit plans, Penalties, Pension insurance, Pensions, Reporting and recordkeeping requirements.

##### 29 CFR Part 2622

Business and industry, Employee benefit plans, Pension insurance, Pensions, Reporting and recordkeeping requirements, Small businesses.

In consideration of the foregoing, Appendix A to Part 2610 and Appendix A to Part 2622 of Chapter XXVI of Title 29, Code of Federal Regulations, are hereby amended as follows:



**PART 2610—PAYMENT OF PREMIUMS**

1. The authority citation for Part 2610 is revised to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 11005, Pub. L. 99-272, 100 Stat. 82, 240.

2. Appendix A to Part 2610 is amended by revising the July 1, 1986, entry and adding a new entry to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

**Appendix A—Late Payment Interest Rates**

The following table lists the late payment interest rates under § 2610.7(a) for the specified time periods:

From	Through	Interest rate (percent)
July 1, 1986	Sept. 30, 1987	9
Oct. 1, 1987		10

**PART 2622—EMPLOYER LIABILITY FOR WITHDRAWALS FROM AND TERMINATIONS OF SINGLE-EMPLOYER PLANS**

3. The authority citation for Part 2622 continues to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3), 1362-1364, 1367-68, as amended by secs. 11011, 11016, Pub. L. 99-272, 100 Stat. 253, 268.

4. Appendix A to Part 2622 is amended by revising the January 1, 1987, entry and adding a new entry to read as follows. The introductory text is republished for the convenience of the reader and remains unchanged.

**Appendix A—Late Payment and Overpayment Interest Rates**

The following table lists the late payment and overpayment interest rates under § 2622.7 for the specified time periods:

From	Through	Interest rate (percent)
Jan. 1, 1987	Sept. 30, 1987	9
Oct. 1, 1987		10

Issued in Washington, DC, the 25th day of September, 1987.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 87-22641 Filed 9-30-87; 8:45 am]

BILLING CODE 7708-01-M

**29 CFR Part 2644****Collection of Withdrawal Liability; Adoption of New Interest Rate**

**AGENCY:** Pension Benefit Guaranty Corporation.

**ACTION:** Final rule.

**SUMMARY:** This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Notice and Collection of Withdrawal Liability. That regulation incorporates certain interest rates published by another Federal agency. The effect of this amendment is to add to the appendix of that regulation a new interest rate to be effective from October 1, 1987, to December 31, 1987.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** John Foster, Attorney, Regulations Division, Corporate Policy and Regulations Department (35100), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202-778-8850 (202-778-8859 or TTY and TDD). These are not toll-free numbers.

**SUPPLEMENTARY INFORMATION:** Under section 4219(c) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), the Pension Benefit Guaranty Corporation ("the PBGC") promulgated a final regulation on Notice and Collection of Withdrawal Liability. That regulation, codified at 29 CFR Part 2644, deals with the rate of interest to be charged by multiemployer pension plans on withdrawal liability payments that are overdue or in default, or to be credited by plans on overpayments of withdrawal liability. The regulation allows plans to set rates, subject to certain restrictions. Where a plan does not set the interest rate, § 2644.3(b) of the regulation provides that the rate to be charged or credited for any calendar quarter is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 ("Selected Interest Rates").

Because the regulation incorporates interest rates published in Statistical Release H.15, that release is the authoritative source for the rates that are to be applied under the regulation. As a convenience to persons using the regulation, however, the PBGC collects and applicable rates and republishes them in an appendix to Part 2644. This amendment adds to this appendix the interest rate of 8¾ percent, which will

be effective from October 1, 1987, through December 31, 1987. This rate is ½ percent higher than the rate in effect for the third quarter of 1987. See 52 FR 25007 (July 2, 1987). This rate is based on the prime rate in effect on September 15, 1987.

The appendix to 29 CFR Part 2644 does not prescribe interest rates under the regulation; the rates prescribed in the regulation are those published in Statistical Release H.15. The appendix merely collects and republishes the rates in a convenient place. Thus, the interest rates in the appendix are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. For the above reasons, the PBGC also believes that good cause exists for making this amendment effective immediately.

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it will not have an annual effect on the economy of \$100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

**List of Subjects in 29 CFR Part 2644**

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2644 of Subchapter F of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

**PART 2644—NOTICE AND COLLECTION OF WITHDRAWAL LIABILITY**

1. The authority citation for part 2644 is revised to read as follows:

**Authority:** 29 U.S.C. 1302(b)(3) and 1399(c)(6).

**Appendix A—[Amended]**

2. Appendix A is amended by adding to the end of the table of interest rates therein the following new entry:

From	To	Date of quotation	Rate (percent)
10/01/87	12/31/87	09/15/87	8.75



Issued at Washington, DC, on this 25th day of September 1987.

Kathleen P. Utgoff,  
Executive Director.

[FR Doc. 87-22640 Filed 9-30-87; 8:45 am]

BILLING CODE 7708-01-M

## DEPARTMENT OF TRANSPORTATION

### Coast Guard

#### 33 CFR Part 5

[CGD 85-073]

#### Coast Guard Auxiliary Ensign and Auxiliary Patrol Boat Ensign

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

**SUMMARY:** The Coast Guard is describing the design of the Coast Guard Auxiliary ensign and the Coast Guard Auxiliary Patrol Boat ensign. Both of these ensigns have been adopted by the Commandant of the Coast Guard and are currently in use. The intended effect of this rulemaking is consistency in the appearance and flying of these ensigns.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mr. Carlton Perry, Office of Boating, Public, and Consumer Affairs, (202) 267-0979.

**SUPPLEMENTARY INFORMATION:** In a directive dated July 19, 1984, the Commandant authorized reproduction and use of the Coast Guard Auxiliary emblem on Auxiliary ensigns, flags, pennants, and burgees. This rule expands the provisions of 33 CFR 5.47 concerning the Coast Guard Auxiliary ensign by describing the design of the Coast Guard Auxiliary ensign and adds a new § 5.48 describing the design of the Coast Guard Auxiliary Patrol Boat ensign.

This final rule was not preceded by a notice of proposed rulemaking and is being made effective in less than 30 days after publication in the *Federal Register*. This rule relates to the Coast Guard's management, procedures and practices, and merely formalizes the design descriptions of the ensigns currently manufactured and used. Nothing in this rulemaking requires the replacement of existing ensigns. Therefore, the Coast Guard has determined that notice and public procedure thereon are unnecessary under 5 U.S.C. 553(b)(3)(B). Since this rule has no substantive effect, good cause exists, under 5 U.S.C. 553(d), for making it effective in less than 30 days after publication in the *Federal Register*.

### Drafting Information

The principal persons involved in drafting this rule are: Mr. Carlton Perry, Project Manager and Mrs. Christena Green, Project Attorney, Office of the Chief Counsel.

**Regulatory Evaluation:** This rulemaking is considered nonmajor under Executive Order No. 12291 and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of the rulemaking has been found to be so minimal that further evaluation is unnecessary. These amendments merely formalize design descriptions of ensigns currently in use and apply to individuals and manufacturers of flags and pennants. Since the impact of the proposal is expected to be minimal, the Coast Guard certifies that this final rule will not have significant economic impact on a substantial number of small entities.

### List of Subjects in 33 CFR Part 5

Volunteers.

In consideration of the foregoing, the Coast Guard is amending Part 5 of Title 33, Code of Federal Regulations as set forth below.

### PART 5—COAST GUARD AUXILIARY

1. The authority for Part 5 is revised to read as follows:

Authority: 14 U.S.C. 633; 49 CFR 1.46.

2. Section 5.47 is revised to read as follows:

#### § 5.47 Auxiliary ensign.

(a) The Coast Guard Auxiliary ensign is a distinguishing mark, authorized by the Secretary, and may be displayed by any vessel, aircraft, or radio station at such times and under such circumstances as may be authorized by the Commandant. The penalty for the unauthorized flying of any ensign, flag or pennant of the Auxiliary is set forth in § 5.67 of this part.

(b) The field of the Auxiliary ensign is medium blue (Coast Guard blue) with a board diagonal white slash upon which a matching blue Coast Guard Auxiliary emblem is centered. The white slash shall be at a 70 degree angle, rising away from the hoist.

(c) The Auxiliary emblem consists of a disk with the shield of the Coat of Arms of the United States circumscribed by an annulet edged and inscribed "U.S. COAST GUARD AUXILIARY" all in front of two crossed anchors.

3. Section 5.48 is added to read as follows:

#### § 5.48 Auxiliary Patrol Boat ensign.

(a) The Coast Guard Auxiliary Patrol Boat ensign is authorized to be flown on all Auxiliary Operational Facility vessels under orders. The penalty for the unauthorized flying of any ensign, flag or pennant of the Auxiliary is set forth in § 5.67 of this part.

(b) The field of the Auxiliary Patrol Boat ensign is white. A medium blue (Coast Guard blue) Coast Guard Auxiliary emblem is centered on a broad diagonal red (Coast Guard red) slash which is at a 70 degree angle, rising toward the hoist. The red (Coast Guard red) slash is followed, away from the hoist, by two narrow, parallel stripes, first a white stripe and then a medium blue (Coast Guard blue) stripe. The entire design is centered on the ensign.

Dated: September 24, 1987.

M.E. Gilbert,

Rear Admiral, U.S. Coast Guard, Chief, Office of Boating, Public and Consumer Affairs.

[FR Doc. 87-22729 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-14-M

## POSTAL SERVICE

### 39 CFR Part 111

#### Combined Presort and ZIP + 4 Presort First-Class Mail

AGENCY: Postal Service.

ACTION: Final rule.

**SUMMARY:** The rule adopted herein reimposes, effective December 20, 1987, the requirement that at least 85 percent of the pieces in a combined Presort and ZIP + 4 Presort First-Class mailing must bear a ZIP + 4 code. This action will terminate the exemption from the minimum ZIP + 4 coding requirement which has been in effect since the ZIP + 4 conversion transition period was initiated in April, 1985.

**EFFECTIVE DATE:** December 20, 1987.

**FOR FURTHER INFORMATION CONTACT:** William T. Alvis, (202) 268-2982.

**SUPPLEMENTARY INFORMATION:** On April 17, 1987, the Postal Service published in the *Federal Register* a proposal to reimpose the requirement that 85 percent of the pieces in a combined Presort and ZIP + 4 Presort First-Class mailing bear ZIP + 4 codes before the pieces bearing a ZIP + 4 code would be eligible for the ZIP + 4 Presort rate. 52 F.R. 12559. As noted in the proposal, the regulations which first authorized combined Presort and ZIP + 4 Presort mailings had required that at least 85 percent of the pieces in a combined



mailing bear ZIP + 4 codes. Early experience with the ZIP + 4 program indicated that mailers were having more difficulty converting their mailing lists to ZIP + 4 code usage than had been anticipated. In response, the Postal Service adopted a rule temporarily suspending the 85 percent requirement so that mailers could have a reasonable opportunity to convert their operations without losing ZIP + 4 discounts.

The proposal observed that approximately two years had passed since the suspension was adopted. Two years was considered ample time for mailers to convert to ZIP + 4 usage. Further, the proposal observed that combined mailings that have high proportions of mail that do not bear ZIP + 4 codes result in nonproductive handlings of mail that increase postal costs. The proposal concluded that a requirement that at least 85 percent of the pieces in a combined mailing bear ZIP + 4 codes was reasonably achievable by mailers and would hold down nonproductive handling costs. Finally, the proposal noted that there were some mailers who had recently begun the process of converting their mailing lists. To accommodate those mailers, the effective date would be delayed until October 18, 1987, to allow them to complete their conversion without having to face imminent loss of their ZIP + 4 code discounts. May 22, 1987, was set as the deadline for comments on the proposed rule.

Five comments were received by the deadline. Four comments were received late. Acceptance of the late comments would not prejudice the rights of any other commenters, so the late comments will be considered herein.

Six commenters, three presort service bureaus, an association of presort service bureaus, a financial services company, and a letter shop, opposed the reimposition of the 85 percent requirement. The association also urged that the effective date for the reimposition of the 85 percent requirement would not allow mailers who had recently converted to ZIP + 4 usage to recover their costs of conversion through Presort ZIP + 4 rate discounts. One commenter supported the reimposition of the 85 percent rule, but believed that the effective date should be sooner. Two commenters did not oppose the reimposition of the 85 percent requirement, but had other suggestions. One suggested that a lower minimum, 75 or 80 percent, be imposed for an interim period of one year. The second suggested that the proposed rule be amended to provide explicitly that all pieces in a mailing which bear a ZIP + 4

code will be counted toward the 85 percent requirements regardless of whether the pieces otherwise qualified for the ZIP + 4 Presort rate.

Presort service bureaus collect unsorted mail, usually from many mailers, combine the mail, sort it to three- or five-digit ZIP Codes, and tender the mail to the Postal Service at Presort First-Class rates. As compensation for the work they do, bureaus typically receive from their customers part of the difference between what their customers would have paid as postage if the mail had been tendered as unsorted mail, and the postage that was paid after presorting by the bureaus. Generally, the bureaus rely on their customers to include ZIP + 4 codes on their mail. Bureaus may share part of any ZIP + 4 presort discounts with customers who put ZIP + 4 codes on their mail, or they may not. The presort service bureaus and the association state that bureaus simply cannot meet the 85 percent requirement. Thus, they say, reimposing the 85 percent requirement would mean that presort service bureaus could not receive the ZIP + 4 discount on the mail that they handle that has ZIP + 4 codes on it. Losing the discount would mean that they would lose the incentive to promote the ZIP + 4 program, so that reimposition of the 85 percent minimum would reduce ZIP + 4 volume. The association also states that the proposed effective date for reimposing the 85 percent requirement would be too soon for their customers who have recently converted to ZIP + 4 usage to recoup their investment by receiving postage savings on ZIP + 4 coded mail tendered for mailing through the facilities of presort service bureaus.

The letter shop commenter stated that it prepares ZIP + 4 mailings for its customers. It says that even after two years of experience it generally cannot achieve an 85 percent ZIP + 4 level for its mailings. Accordingly, this commenter says that if the 85 percent requirement were reimposed, it would not receive a ZIP + 4 discount for many of its pieces. This commenter also stated that it disagreed with the Postal Service's contention that commingling five-digit pieces with presorted ZIP + 4 pieces resulted in nonproductive handlings. This commenter also stated that increasing the requirement for ZIP + 4 coding to eliminate additional handlings of commingled five-digit mail would increase the amount of residual mail and the number of five- and three-digit packages that must be handled.

The financial services company also said that it was not achieving an 85

percent ZIP + 4 code level for its mailings. This mailer urged that the 85 percent requirement not be reimposed.

Another commenter was a large mailer who stated that the 85 percent requirement was acceptable and achievable for it. This commenter said, however, that it considered itself a reasonably sophisticated mailer, and questioned whether many mailers were capable of maintaining an 85 percent ZIP + 4 level. This commenter suggested that the Postal Service adopt a slightly lower requirement, 75 to 80 percent, for an interim period of one year.

The last commenter was also a large mailer who did not oppose the 85 percent requirement in principle. This mailer was concerned, however, that not all the pieces in a combined ZIP + 4 Presort mailing that contained a ZIP + 4 code would count toward the 85 percent requirement. This mailer apparently wants residual pieces on which regular ZIP + 4 postage is paid to count toward the 85 percent requirement the same as pieces which qualify for the ZIP + 4 Presort rate.

After careful consideration of all of the comments, the Postal Service has concluded that it will adopt the rule as proposed. We recognize that, under current operations, some presort service bureaus will no longer be able to obtain the ZIP + 4 discount or all the mail tendered to them that has a ZIP + 4 code on it. We do not believe that this would justify further delay in reimposing the 85 percent requirement, with the additional mail processing costs that delay would entail. Further, if a presort service bureau has sufficient amounts of ZIP + 4 mail, it can separate that mail from mail which bears only a five-digit ZIP Code and tender the ZIP + 4 coded mail as a separate mailing. Presort service bureaus can also take advantage of the provisions in Domestic Mail Manual (DMM) section 336 that permit some ZIP + 4 coded mail to be sorted only to three digits and still qualify for Presorted ZIP + 4 rates. In this regard, our analysis indicates that the cost of the additional handlings of five-digit presort mail commingled with Presort ZIP + 4 mail exceeds the cost of the handlings that would be incurred if that mail were not commingled.

With respect to service bureau customers who have only recently converted to ZIP + 4 usage and have not yet recouped their investment, we believe that the more than two years that the 85 percent requirement will have been suspended has given mailers in general an adequate amount of time to decide on whether to use ZIP + 4



codes, make their conversion, and recover their investment. While there might be some mailers who, because of the reimposition of the 85 percent requirement, will not recover all of their investment as quickly as they otherwise might have, we believe that they had ample notice that the 85 percent requirement would be reimposed at some time. We further have concluded that the interval between the proposal to reimpose the 85 percent requirement and the effective date of the new regulations is an appropriate period for bringing the suspension to an orderly end, without unduly penalizing mailers who have not already converted to ZIP + 4 usage.

Nonetheless, because of the time required to evaluate the comments and conduct appropriate investigations of some of the assertions made in the comments, and because in the time between the publication of the proposed rule and the decision to adopt the rule as proposed the Postal Service adopted a policy of making most changes in DMM regulations effective with the issuance of a new edition of the DMM each quarter, the Postal Service has decided to postpone the effective date of the new rule. In this instance, the next edition of the DMM is scheduled for December 20, 1987. Accordingly, the effective date for the new rule will be December 20, 1987.

The Postal Service has also decided that it will not adopt a ZIP + 4 qualification level of less than 85 percent. Our analysis in connection with the proposal to permit some ZIP + 4 coded mail to be presorted only to the three-digit level and still qualify for the ZIP + 4 Presort rate showed that the automation equipment operates more efficiently with the 85 percent qualification level than with any lower level. Our experience since then has not altered that conclusion.

In addition, based on the claimed inability of some of the commenters to meet the 85 percent requirement, the Postal Service consulted with its sales personnel about customers' ability to achieve an 85 percent ZIP + 4 code level for their mailings. The sales personnel reported that the companies with which they spoke expected no difficulty in meeting the 85 percent requirement. The Postal Service's Address Information Center was also consulted because of its experience with ZIP + 4 code conversion and usage, and it confirmed that by using state-of-the-art software and equipment mailers should have no difficulty in meeting the 85 percent requirement. Accordingly, we believe that many mailers can achieve

and will maintain a qualification level of 85 percent or greater. We will, however, monitor the situation, and will consider any evidence that shows that the 85 percent level should be changed.

We also reject the proposal to amend the proposed rule so as to state that all pieces in a mailing which bear a ZIP + 4 code will count toward the 85 percent requirement regardless of whether all of those pieces are paid at the ZIP + 4 Presort rate. The rule as proposed was intended to provide that 85 percent of the pieces of a combined mailing bear a ZIP + 4 code for the ZIP + 4 pieces in the mailing to qualify for the additional ZIP + 4 Presort discount. The proposed amendment would change that intent, so that carrier route presort and residual pieces bearing a ZIP + 4 code would also count toward the 85 percent requirement. No data have been presented which would warrant such a departure from the intent of the rule, or which would reliably inform the Postal Service of the possible cost and revenue consequences of such a departure.

The Postal Service hereby adopts the following final regulations on this subject as an amendment to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

#### List of Subjects in 39 CFR Part 111

Postal Service.

#### PART 111—[AMENDED]

1. The authority for Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001-3011, 3201-3219, 3403-3406, 3621, 5001.

#### Part 365—Combined Presort Mailings

2. In 365, delete current 365.2, renumber 365.3 through 365.5 as 365.2 through 365.4 respectively, then renumber 365.22-.26 as 365.23-.27, and add a new 365.22 to read as follows:

#### 365.2 Requirements for Combined Presort Mailings

\* \* \* \* \*

.22 At least 85 percent of the pieces in a combined mailing must bear the correct ZIP + 4 code.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in

the Federal Register as provided by 39 CFR 111.3.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-22619 Filed 9-30-87; 8:45 am]

BILLING CODE 7710-12-M

#### 39 CFR Parts 952 and 964

#### Disposition of Mail Withheld From Delivery

AGENCY: Postal Service.

ACTION: Final rule.

**SUMMARY:** The Judicial Officer of the Postal Service hereby issues the rules of practice in proceedings for administrative review of cases involving mail withheld from delivery pursuant to 39 U.S.C. 3003 and 3004. Such action is taken pursuant to authority delegated to the Judicial Officer by 39 CFR 224.1(c)(4)(ii)(A).

Present regulations governing rules of practice for mail withheld under section 3003 are contained in 39 CFR Part 952. Those rules of practice also cover false representation and lottery proceedings brought under 39 U.S.C. 3005. There presently are no rules of practice governing proceedings brought under 39 U.S.C. 3004.

It has been determined that a need exists for promulgation of rules of practice governing proceedings under 39 U.S.C. 3004. Due to the similarity of Postal Service enforcement procedures under 39 U.S.C. 3003 and 3004 the rules of practice for those two proceedings will be combined. Accordingly, 39 CFR 952.2 is amended to delete coverage of 39 U.S.C. 3003 proceedings and the new following rules are adopted as Part 964.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** James D. Finn, Jr., 202-268-2133.

#### List of Subjects in 39 CFR Parts 952 and 964

Administrative practice and procedure, Postal Service, Fraud, Lotteries.

#### PART 952—RULES OF PRACTICE IN PROCEEDINGS RELATIVE TO FALSE REPRESENTATION AND LOTTERY ORDERS

1. The authority citation for Part 952 is revised to read as set forth below, and the authority citations following all the sections in Part 952 are removed.

Authority: 39 U.S.C. 204, 401, 3005.



**§ 952.2 [Amended]**

2. In § 952.2, remove "3003 and".

3. New Part 964 is added to read as follows:

**PART 964—RULES OF PRACTICE  
GOVERNING DISPOSITION OF MAIL  
WITHHELD FROM DELIVERY  
PURSUANT TO 39 U.S.C. 3003, 3004**

Sec.

- 964.1 Authority for rules.
- 964.2 Scope of rules.
- 964.3 Customer petitions; notice of hearing; answer; summary judgment.
- 964.4 Hearings.
- 964.5 Election as to hearing.
- 964.6 Default.
- 964.7 Presiding officers.
- 964.8 Subpoenas and witness fees not authorized.
- 964.9 Discovery; interrogatories; admission of facts; production; and inspection of documents.
- 964.10 Evidence.
- 964.11 Transcript.
- 964.12 Computation of time.
- 964.13 Continuances and extensions.
- 964.14 Proposed findings of fact and conclusions of law.
- 964.15 Decisions.
- 964.16 Appeal.
- 964.17 Final agency decision.
- 964.18 Compromise and informal disposition.
- 964.19 Orders.
- 964.20 Modification or revocation of orders.
- 964.21 Official record.
- 964.22 Public information.
- 964.23 Ex Parte communications.

Authority: 39 U.S.C. 204, 401, 3003, 3004.

**§ 964.1 Authority for rules.**

These rules of practice are issued by the Judicial Officer of the United Postal Service pursuant to authority delegated by the Postmaster General (39 CFR 224.1(c)(4)).

**§ 964.2 Scope of rules.**

The rules in this part provide for administrative review of cases in which the Chief Postal Inspector or his delegate, acting pursuant to 39 U.S.C. 3003(a), has withheld from delivery mail which he believes is involved in a scheme described in section 3003(a), and cases in which the Chief Postal Service Inspector or his delegate, acting pursuant to 39 U.S.C. 3004, determines that letters or parcels sent in the mail are addressed to places not the residence or regular business address of the person for whom they are intended to enable the person to escape identification.

**§ 964.3 Customer petitions; notice of hearing; answer; summary judgment.**

(a) *Petition.* Any addressee who receives notice from the Chief Postal Inspector or his delegate that his mail

has been withheld pursuant to 39 U.S.C. 3003(a) or 3004 may oppose such action by filing with the Judicial Officer a written Petition stating the reasons for his or her opposition. The Petition, signed by the Petitioner or his attorney, shall be filed by sending the Petition via certified mail to the Recorder, Judicial Officer Department, U.S. Postal Service, Washington, DC 20260-6100. The Petition must be postmarked within 14 days of the date upon which the Petitioner received the notice.

(b) *Notice of hearing.* On receipt of the Petition, the Recorder shall schedule a hearing on a date not later than 28 days after the date of receipt. A Notice of Hearing shall be sent to the Petitioner. A copy of the Notice of Hearing and the Petition shall be sent to the General Counsel of the U.S. Postal Service.

(c) *Answer.* The General Counsel of the Postal Service shall file an Answer to the Petition within 10 days of receipt of the Petition from the Recorder.

(d) *Summary judgment.* Upon motion of either the General Counsel or the Petitioner, or upon his own initiative, the presiding officer may find that the Petition and Answer present no material issues of fact requiring an evidentiary hearing and thereupon may render an initial decision granting or dismissing the Petition. The initial decision shall become the final agency decision if a timely appeal is not taken pursuant to § 964.16 of this part.

**§ 964.4 Hearings.**

Hearings are held at the Headquarters of the U.S. Postal Service, Washington, DC, or such other location as may be designated by the presiding officer. Not later than 10 days prior to the date fixed for the hearing, a party may file a request that a hearing be held to receive evidence in his behalf at a place other than that designated for hearing in the notice. He shall support his request with a statement outlining:

(a) The evidence to be offered in such place;

(b) The names and addresses of the witnesses who will testify; and

(c) The reasons why such evidence cannot be produced at Washington, DC. The presiding officer shall give consideration to the convenience and necessity of the parties and the relevance of the evidence to be offered

**§ 964.5 Election as to hearing.**

If both parties elect, they may waive an oral hearing and submit the matter for decision on the basis of the Petition and Answer, subject to the authority of the presiding officer to require the parties to furnish such further evidence

or such briefs as necessary. The request to waive oral hearing should be filed not later than 10 days prior to the date set for hearing.

**§ 964.6 Default.**

If a Petitioner fails to appear at the hearing without notice or without adequate cause the presiding officer may issue an order dismissing the Petition. An order of dismissal issued under this section may be appealed to the Judicial Officer within 10 days from the date of the order.

**§ 964.7 Presiding officers.**

(a) The presiding officer shall be an Administrative Law Judge qualified in accordance with law. The Judicial Officer shall assign cases upon rotation as far as practicable. The Judicial Officer may on his own initiative or for good cause shown, preside at the reception of evidence.

(b) The presiding officer has authority to:

- (1) Administer oaths and affirmations;
- (2) Examine witnesses;
- (3) Rule upon offers of proof, admissibility of evidence and matters of procedure;

(4) Order any pleadings amended upon motion of a party at any time prior to the close of the hearing;

(5) Maintain discipline and decorum and exclude from the hearing any person acting in an indecorous manner;

(6) Require the filing of briefs or memoranda of law on any matter upon which he is required to rule;

(7) Order prehearing conferences for the purpose of the settlement or simplification of issues by the parties or for any other purpose he believes will facilitate the processing of the proceeding;

(8) Order the proceeding reopened at any time prior to his decision for the receipt of additional evidence;

(9) Render an initial decision, which becomes the final agency decision unless a timely appeal is taken: The Judicial Officer may issue a tentative or a final decision;

(10) Rule upon applications and requests filed under § 964.9 of this part.

**§ 964.8 Subpoenas and witness fees not authorized.**

The Postal Service is not authorized to issue subpoenas requiring the attendance or testimony of witnesses, nor to pay fees and expenses for a Petitioner's witnesses or for depositions requested by a Petitioner.



**§ 964.9 Discovery; interrogatories; admission of facts; production and inspection of documents.**

(a) *General policy and protective orders.* The parties are encouraged to engage in voluntary discovery procedures. In connection with any discovery procedure permitted under this part, the presiding officer may issue any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such orders may include limitations on the scope, method, time and place for discovery, and provisions for protecting confidential information or documents from unwarranted public disclosure. Each party shall bear its own expenses relating to discovery.

(b) *Depositions.* (1) After the issuance of a notice of hearing described in § 964.3 of this part, the parties may mutually agree to, or the presiding officer may, upon application of either party and for good cause shown, order the taking of testimony of any person by deposition upon oral examination or written interrogatories before any officer authorized to administer oaths at the place of examination, for use as evidence or for purposes of discovery. The application for order shall specify whether the purpose of the deposition is discovery or for use as evidence, or both.

(2) The time, place, and manner of taking depositions shall be as mutually agreed by the parties, or failing such agreement, governed by order of the presiding officer.

(3) No testimony taken by depositions shall be considered as part of the evidence in the hearing unless and until such testimony is offered and received in evidence at such hearing. Depositions will not ordinarily be received in evidence if the deponent is present and can testify personally at the hearing. In such instances, however, the deposition may be used to contradict or impeach the testimony of the witness given at the hearing. In cases submitted on the record, the presiding officer may, in his discretion, receive depositions as evidence in supplementation of the record.

(c) *Interrogatories to parties.* Not later than 5 days after the filing of the Answer described in § 964.3, a party may serve on the other party written interrogatories to be answered separately in writing, signed under oath and returned within 10 days. Upon timely objection by the party, the presiding officer will determine the extent to which the interrogatories will be permitted.

(d) *Admission of facts.* Not later than 5 days after the filing of the Answer described in § 964.3, a party may serve upon the other party a request for the admission of specified facts. Within 10 days after receipt of the request for admissions, the party served shall admit or answer each specified fact or file objections thereto. Any factual propositions set out in the request to which a party fails to respond shall be deemed admitted.

(e) *Production and inspection of documents.* Upon motion of any party showing good cause therefor, and upon notice, the presiding officer may order the other party to produce and permit the inspection and copying or photographing of any designated documents and or objects, provided that such documents and objects are not privileged, their relevance to the cause or causes in issue is explained, and they are reasonably calculated to lead to the discovery of admissible evidence. If the parties cannot themselves agree thereon, the presiding officer shall specify the terms and conditions for making the inspection and taking the copies and photographs.

**§ 964.10 Evidence.**

(a) In general, admissibility will hinge on relevancy and materiality. However, relevant evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(b) Testimony shall be given under oath or affirmation and witnesses shall be subject to cross-examination.

(c) Agreed statements of fact are encouraged and may be received in evidence.

**§ 964.11 Transcript.**

Testimony and argument at hearings shall be reported verbatim, unless the presiding officer orders otherwise. Transcripts or copies of the proceedings are supplied to the parties at such rate as may be fixed by contract between the reporter and Postal Service. Any party desiring a copy of the transcript shall order it from the contract reporter in a timely manner to avoid delay in filing briefs.

**§ 964.12 Computation of time.**

A designated period of time under these rules means calendar days, excludes the day the period begins, and includes the last day of the period unless the last day is a Saturday, Sunday, or legal holiday, in which case the period runs until the close of business on the next business day.

**§ 964.13 Continuances and extensions.**

Continuances and extensions will be granted by the presiding officer for good cause shown.

**§ 964.14 Proposed findings of fact and conclusions of law.**

(a) Each party to a proceeding, except one who fails to answer the Petition or, having answered, either fails to appear at the hearing or indicates in the answer that he does not desire to appear, may, unless at the discretion of the presiding officer such is not appropriate, submit proposed findings of fact, conclusions of law, orders and supporting reasons either in oral or written form in the discretion of the presiding officer. The presiding officer may also require parties to submit proposed findings of fact, conclusions of law, orders, and supporting reasons. Unless given orally, the date set for filing of proposed findings of fact, conclusions of law, orders and supporting reasons shall be within 15 days after the delivery of the official transcript to the Recorder who shall notify both parties of the date of its receipt. The filing date for proposed findings of fact, conclusions of law, orders and supporting reasons shall be the same for both parties. If not submitted by such date, unless extension of time for the filing thereof is granted, they will not be included in the record or given consideration.

(b) Except when presented orally before the close of the hearing, proposed findings of fact shall be set forth in serially numbered paragraphs and shall state with particularity all evidentiary facts in the record with appropriate citations to the transcript or exhibits supporting the proposed finding. Each proposed conclusion shall be separately stated.

**§ 964.15 Decisions.**

(a) *Initial decision by Administrative Law Judge.* A written initial decision shall be rendered by an Administrative Law Judge with all due speed. The initial decision shall include findings and conclusions with the reasons therefor upon all the material issues of fact or law presented in the record, and the appropriate orders or denial thereof. The initial decision shall become the final agency decision unless an appeal is taken in accordance with § 964.16.

(b) *Tentative or final decision by the Judicial Officer.* When the Judicial Officer presides at the hearing he shall issue a final or a tentative decision. Such decision shall include findings and conclusions with the reasons therefor upon all the material issues of fact or law presented in the record, and the



appropriate orders or denial thereof. The tentative decision shall become the final agency decision unless exceptions are filed in accordance with § 964.16.

#### § 964.16 Appeal.

(a) Either party may file exceptions in a brief on appeal to the Judicial Officer within 15 days after receipt of the initial or tentative decision unless additional time is granted. A reply brief may be filed within 15 days after receipt of the appeal brief by the opposing party. The Judicial Officer has all powers of a presiding officer and is authorized to decide all issues *de novo*.

(b) Briefs upon appeal or in support of exceptions to a tentative decision by the Judicial Officer and replies thereto shall be filed in triplicate with the Recorder and contain the following matter in the order indicated:

(1) A subject index of the matters presented, with page references; a table of cases alphabetically arranged; a list of statutes and texts cited with page references.

(2) A concise abstract or statement of the case in briefs on appeal or in support of exceptions.

(3) Numbered exceptions to specific findings and conclusions of fact, conclusions of law, or recommended orders of the presiding officer in briefs on appeal or in support of exceptions.

(4) A concise argument clearly setting forth points of fact and of law relied upon in support of or in opposition to each exception taken, together with specific references to the parts of the record and the legal or other authorities relied upon.

#### § 964.17 Final agency decision.

The Judicial Officer renders the final agency decision which will be served upon the parties and upon the postmaster at the office where the mail at issue is being held.

#### § 964.18 Compromise and informal disposition.

Nothing in these rules precludes the compromise, settlement, and informal disposition of proceedings initiated under these rules at any time prior to the issuance of the final agency decision.

#### § 964.19 Orders.

If an order is issued which prohibits delivery of mail to a Petitioner it shall be incorporated in the record of the proceeding. The Recorder shall cause notice of the order to be published in the *Postal Bulletin* and cause the order to be transmitted to such postmasters and other officers and employees of the Postal Service as may be required to place the order into effect.

#### § 964.20 Modification or revocation of orders.

A party against whom an order or orders have been issued may file an application for modification or revocation thereof. The Recorder shall transmit a copy of the application to the General Counsel, who shall file a written reply within 10 days after receipt or such other period as the Judicial Officer may fix. A copy of the reply shall be sent to the applicant by the Recorder. Thereafter an order granting or denying such application will be issued by the Judicial Officer.

#### § 964.21 Official record.

The transcript of testimony together with all pleadings, orders, exhibits, briefs, and other documents filed in the proceeding constitute the official record of the proceeding.

#### § 964.22 Public information.

The Law Librarian of the Postal Service maintains for public inspection in the Law Library copies of all initial, tentative, and final agency decisions and orders. The Recorder maintains the complete official record of every proceeding.

#### § 964.23 Ex parte communications.

The provisions of 5 U.S.C. 551(14), 556(d), and 557(d) prohibiting ex parte communications are made applicable to proceedings under these rules of practice.

James A. Cohen,  
Judicial Officer.

[FR Doc. 87-22646 Filed 9-30-87; 8:45 am]  
BILLING CODE 7710-12-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 413

[BERC-428-F]

#### Medicare Program; Payment for Facility Services Related to Ambulatory Surgical Procedures Performed in Hospitals on an Outpatient Basis

AGENCY: Health Care Financing Administration (HCFA), HHS.  
ACTION: Final rule.

SUMMARY: This final rule sets forth the methodology that will be used to determine payments for hospital outpatient services furnished to Medicare beneficiaries in connection with ambulatory surgical procedures. This rule implements section 9343(a) of

the Omnibus Budget Reconciliation Act of 1986.

EFFECTIVE DATE: This regulation is effective for hospital cost reporting periods beginning on or after October 1, 1987.

FOR FURTHER INFORMATION CONTACT: Janet Wellham, (301) 597-1939.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On June 2, 1987, we published in the *Federal Register* (52 FR 20623) a notice of proposed rulemaking (the proposed rule) that solicited public comments on regulations to implement section 9343(a) of the Omnibus Budget Reconciliation Act of 1986 (Pub. L. 99-509), enacted on October 21, 1986. Section 9343(a) of Pub. L. 99-509 set forth specific, new methodology to be used in determining Medicare payment for facility services furnished in a hospital on an outpatient basis in connection with covered ambulatory surgical center (ASC) procedures that have been specified by the Secretary in accordance with section 1833(i)(1)(A) of the Act and 42 CFR 416.65. Section 9343(a) of Pub. L. 99-509 amended section 1833(a)(4) of the Act and added a new section 1833(i)(3) to the Act to provide that, for hospital cost reporting periods beginning on or after October 1, 1987, payment for outpatient facility services in the aggregate is to be based on a comparison between two amounts. The payment is to be the lesser of the following:

The amount for the services that would be paid to the hospital under section 1833(a)(2)(B) of the Act (that is, the lower of the hospital's reasonable costs or customary charges for the services, reduced by deductibles and coinsurance); or

An amount based on a blend of—  
The amount that would be paid to the hospital for the services under section 1833(a)(2)(B) of the Act (referred to below as the hospital-specific amount); and

The amount that would be paid to a free-standing ASC for the same procedure in the same geographic area, in accordance with section 1833(i)(2)(A) of the Act, which is equal to 80 percent of the standard overhead amount reduced by deductibles (referred to below as the ASC payment amount).

Section 1833(i)(3)(B) of the Act provides that for cost reporting periods beginning on or after October 1, 1987 but before October 1, 1988, the blended amount is based on 75 percent of the hospital-specific amount and 25 percent of the ASC payment amount attributable to the procedure. For cost reporting



periods beginning on or after October 1, 1988, the blended payment amount is to be based on 50 percent of the hospital-specific amount and 50 percent of the ASC payment amount. In addition, section 1833(i)(3)(A) of the Act, as added by section 9343(a) of Pub. L. 99-509, requires that all covered ASC surgical procedures performed in a hospital on an outpatient basis during a cost reporting period be aggregated for purposes of determining the proper Medicare payment amount.

## II. Summary of Provisions

In the proposed rule, we set forth changes to Subparts A and F of 42 CFR Part 413. Because the statute is very specific, we were unable to adopt any of the suggestions made by the commenters concerning the proposal. In section III below, we discuss the comments we received and provide our responses to them.

As proposed, in Subpart A, we are revising § 413.13(c), which provides for the aggregation of charges for purposes of determining the amount of payments to a provider if customary charges for services furnished are less than reasonable costs. As it currently reads, § 413.13(c) specifies that in comparing charges and costs, customary charges for items and services, and the reasonable cost of those items and services are to be aggregated without regard to whether the related services are payable under Part A (Hospital Insurance) or Part B (Supplementary Medical Insurance) of Medicare.

As we noted in the proposed rule, section 2308(a) of the Deficit Reduction Act of 1984 (Pub. L. 98-369), enacted on July 18, 1984, directs the Secretary to issue regulations, applicable to cost reporting periods beginning on or after October 1, 1984, to eliminate the aggregation method of calculating the lower cost or charges (LCC) and to require that LCC be calculated and reported separately for services furnished under Part A or Part B of the Medicare program.

This change was subject of a notice of proposed rulemaking we published on September 18, 1986 in the *Federal Register* (51 FR 33074), and we are in the process of developing a final rule. We expect to publish that rule shortly. However, in order to implement section 9343(a) of Pub. L. 99-509, we found it necessary to make a further refinement to the methodology mandated by section 2308(a) of Pub. L. 98-369 that requires a further disaggregation of customary charges. Effective for cost reporting periods beginning on or after October 1, 1987, it will be necessary that all reasonable costs and customary charges

for those services that are subject to the new payment method for covered ASC surgical procedures performed in a hospital on an outpatient basis during a cost reporting period be aggregated and treated separately from the reasonable costs and customary charges for all other services furnished in the cost reporting period.

As also proposed on June 2, 1987, we are adding a new § 413.118 (in 42 CFR Part 413, Subpart F), to describe the payment methodology required by section 1833(i)(3) of the Act (as enacted by section 9343(a) of Pub. L. 99-509) that will be used to determine payment for facility services related to covered ASC surgical procedures performed in a hospital on an outpatient basis. In the new § 413.118, we define the terms "facility services," "blended payment amount" and "standard overhead amount." We define outpatient "facility services" using the same definition as used for facility services for ambulatory surgical centers (as described in § 416.61). We based the definitions of "blended payment amount" on the payment methodology required by section 1833(i)(3)(B) of the Act, as added by section 9343(a) of Pub. L. 99-509, and the definition of "standard overhead amount" on section 1833(i)(2)(A) of the Act, which requires payments to ASCs to be equal to 80 percent of the standard overhead amount (net of the Part B deductible) per procedure (as described in § 416.125).

The aggregate payment for outpatient facility services, as defined above, will be equal to the lesser of: (1) The hospital's reasonable costs or customary charges, as described in § 413.13, reduced by deductibles and coinsurance; or (2) a blended amount based on the lower of a hospital's reasonable cost or customary charges reduced by deductibles and coinsurance and 80 percent of the standard overhead amount (reduced by deductibles) paid to free-standing ASCs for the same procedure in the same geographic area. For cost reporting periods beginning on or after October 1, 1987 but before October 1, 1988, the blend is to be 75 percent hospital-specific (based on the lower of reasonable costs or customary charges reduced by deductibles and coinsurance) and 25 percent of the amount paid to a free-standing ASC for the same procedure in the same geographic area. As discussed in the proposed rule (52 FR 20624), the portion of the blend attributable to the ASC payment amount is determined based on the standard overhead amount (net of deductibles) multiplied by 80 percent. The 80 percent adjustment is in accordance with section 1833(i)(2)(A) of

the Act, which requires payments to ASCs to be 80 percent of the standard overhead amount per procedure. For cost reporting periods beginning on or after October 1, 1988, the 75 percent/25 percent blend, discussed above, changes to a 50/50 blend.

As explained in the preamble of the June 2, 1987 proposed rule, in order to make this rule consistent with payment rules for free-standing ASC services, if more than one covered ASC surgical procedure is performed at one time, payment is to be based on the procedure with the highest standard overhead payment amount, and payment for the other procedures is to be based on fifty percent of the applicable standard overhead amounts, as provided in § 416.120. As noted in the proposed rule, ASCs operated by hospitals that have an agreement with HCFA to be paid in accordance with § 416.30(f) are unaffected by this rule. That is, these ASCs will continue to be paid in accordance with § 416.30.

In addition, we note that covered surgical procedures furnished by a hospital on an outpatient basis that are not included on the covered ASC surgical procedure listing, as updated in a final notice in the *Federal Register* on April 21, 1987 (52 FR 13176) and corrected on May 11, 1987 (52 FR 17678), are to be reimbursed under existing regulations without regard to the blended payment amount described in this rule. If any of these covered surgical procedures are subsequently included on the covered ASC surgical procedure listing, then the payment methodology described in this rule would be applied as of the effective date of the addition to the ASC surgical procedure listing.

## III. Comments and Responses

We received 12 timely sets of comments concerning our proposal. These comments were from hospitals, hospital associations and others. A summary of the comments we received and our responses to them are presented below.

*Comment:* Some commenters stated that, since the implementation of the prospective payment system for hospital inpatient services, hospitals have been under extreme pressure to move certain surgical procedures from the inpatient setting to the outpatient setting. These commenters stated that under this new payment methodology hospitals will, in almost all cases, lose money because they will be reimbursed at either cost or less than cost regardless of how low their costs are. The point was also made that, unlike hospitals, most ASCs are physician owned and that their losses



are subsidized by the physician owners. Another statement made by these commenters was that the proposed payment methodology will have very detrimental effects on those hospitals whose outpatient surgery percentage is 25 percent or higher of the total surgical procedures performed in the hospital. These commenters pointed out that there have been no regulations proposed that would help those hospitals that have a disproportionately high share of outpatient surgical procedures to total surgical procedures. According to these commenters, hospitals that have done what HCFA has requested over the past few years (that is, transferred services to the outpatient setting) will now find themselves being forced out of business as the result of this new payment methodology. The commenters used the ASC payment rate for cataract surgery as an example. They stated that the cost for cataract surgery, when provided in a hospital outpatient setting, is substantially more than the amount that was announced for this procedure in the notice of ASC rates published on June 1, 1987 (52 FR 20466).

**Response:** The payment methodology for ambulatory surgical procedures performed in hospitals on an outpatient basis, as described in the June 2, 1987 proposed rule, is required by section 1833(i)(3) of the Act, as enacted by section 9343(a) of Pub. L. 99-509. We have no authority to provide any relief to hospitals generally or those that perform a disproportionate share of outpatient surgeries. We point out that the payment methodology contained in this rule is only applicable to those procedures that have been specified by the Secretary to be performed by an ambulatory surgical center. Section 1833(i)(3) of the Act specifically requires the use of ASC payment rates along with a hospital's actual cost and charge data for purposes of determining the amount of payment that is to be made for facility services related to ambulatory surgical procedures performed in hospital outpatient departments. Thus, the payment for cataract surgery like any other ASC procedure performed in a hospital on an outpatient basis must be limited to an amount based on the amount that would be paid to a freestanding ASC for the same procedure.

**Comment:** Two commenters stated that the methodologies implementing Pub. L. 99-509 will result in significantly increased expenses to hospitals because of the need to use the HCFA Common Procedure Coding System (HCPCS) and to make data processing, billing and accounting changes. The commenters

stated that the proposed payment methodology will impose more stringent payment requirements on hospitals than are imposed on approved freestanding ASCs. These commenters further stated that, because under the proposed payment methodology hospitals will receive payments based on the lesser of two amounts (that is, the lower of cost or charges or the blended payment), there is no potential for hospitals to make a profit. One of these commenters specifically requested that we change the proposed payment methodology in order to remove the lower of cost or charges provision.

**Response:** We acknowledge that hospitals may incur increased expenses relating to data processing, billing and accounting changes that must be made in order to comply with this regulation. However, the payment methodology relating to ambulatory surgical procedures performed in hospitals on an outpatient basis was mandated by Congress when it enacted section 9343 of Pub. L. 99-509. Consequently, we have very limited discretion in implementing this methodology. We have no authority to remove the lower of cost or charges provision because section 1833(i)(3) of the Act specifically requires it.

**Comment:** One hospital maintained that hospital ambulatory surgical units are not the same as ASCs. In hospital outpatient settings, certain operating rooms, staff, supplies, teaching and capital resources are used and, although the end result is less costly than inpatient surgery, hospital outpatient surgery is not comparable to services performed in an ASC.

**Response:** Congress, in enacting section 1833(i)(3) of the Act, did not intend that hospitals be paid the full ASC amount at this time. The payment methodology required by section 1833(i)(3) of the Act is a temporary payment methodology that is to be used by hospitals until a prospective payment system for ambulatory surgical procedures performed in hospitals is developed. Section 9343(f) of Pub. L. 99-509 requires HCFA to submit an interim report to Congress by April 1, 1988 concerning the development of a prospective payment system for ambulatory surgical procedures performed on an outpatient basis by hospitals. (The final report is due by April 1, 1989.) In the interim report, we will address whether payments to hospitals for these services should be based on hospital costs/charges, or based on ASC payment rates or a blend of the two. Also, in that report we will make recommendations for developing

and implementing an all-inclusive payment system for ambulatory surgery encompassing payment for facility services and all medical and other health services commonly furnished in connection with an ambulatory surgical procedure other than the physician's services. The payment methodology described in this rule, which is an interim payment system, attempts to account for the difference between the cost of hospital facility services and ASC services by providing for the use of a phased-in blended payment amount. As discussed earlier, for the first year that the methodology is in effect, that is, Federal fiscal year (FY) 1988, the blended amount is based on 25 percent of the applicable ASC payment rate and 75 percent of the hospital's actual costs or charges. In subsequent years until a prospective payment system is implemented, the amounts change to a 50/50 percent blend.

**Comment:** Two commenters stated that the payment methodology requires that costs related to ASC procedures performed by a hospital be aggregated and reported on the hospital's cost report. They further stated that, in most cases, the financial detail necessary to comply with this requirement does not exist and that development of aggregate cost data is going to be burdensome on hospitals.

**Response:** The Medicare intermediaries will accumulate the data needed by the hospital to compute costs related to ASC procedures as bills are processed throughout the year. They will provide hospitals with the data needed to prepare cost reports through the Provider Statistical and Reimbursement Report. Therefore, we do not believe that the requirement that cost/charge data be aggregated will be overly burdensome on hospitals.

**Comment:** Two commenters stated that as the result of financial losses and paperwork burden imposed by this new payment methodology, hospitals will be forced to scale down their ambulatory services. Five other commenters stated that it is more expensive to provide ambulatory surgery in a hospital than in an ASC because of overhead, back-up staff, latest technologies, and diagnostic/treatment resources. These commenters maintained that back-up resources in a hospital are necessary because the types of patients that hospitals generally treat are more seriously ill than the average ASC patient. Thus, these commenters concluded that, if hospitals find that they cannot compete with ASCs because of higher costs, the availability of hospital ambulatory surgical services



may decrease. This effect would be detrimental to the Medicare population.

**Response:** We recognize the possibility, as we stated in the proposed rule (52 FR 20626), that beneficiary access to care may be reduced if hospitals decide that they cannot compete effectively with ASCs under the revised payment methodology and discontinue their ambulatory surgical services. However, we made the statement as a practical observation. We have no evidence nor did the commenters offer any evidence that implementation of the payment methodology will actually force hospitals to cease providing ambulatory surgical services. In any case, we are setting forth the methodology in regulations that Congress prescribed in the law.

**Comment:** Five hospital associations suggested that further analyses of the impact of this provision along with an evaluation of current ambulatory surgery capacity be undertaken before implementation of this new and untested payment methodology. These commenters especially requested that implementation be delayed until the HCFA report to Congress on prospective payment for surgical procedures performed in hospitals on an outpatient basis, which is due April 1, 1988, is presented and studied. Another commenter recommended that HCFA delay implementation for a year in order to allow HCFA sufficient time to analyze ASC data for purposes of establishing fair and adequate payment rates. This commenter stated that a year's delay would allow hospitals adequate time to change data processing, billing and accounting systems and would allow adequate time to train personnel in HCPCS coding procedures.

**Response:** Section 9343(h)(1) of Pub. L. 99-509 specifically imposes an effective date of October 1, 1987 for implementation of the payment methodology. Therefore, we have no authority to delay the implementation beyond the statutory date.

**Comment:** One commenter pointed out that in calculating individual ASC payment rates HCFA will apply the wage index currently in use for ASCs, published in the June 30, 1981 Federal Register. The commenter objected to the use of an index that has not been updated and recommended that HCFA use the wage index proposed for hospitals under the FY 1988 prospective payment rates.

**Response:** Payments to ASCs are currently calculated by applying the wage index that was initially published on June 30, 1981 (46 FR 33641) and

subsequently republished in the November 26, 1984 Federal Register (49 FR 46495). Section 1833(i)(3)(B) of the Act, as enacted by 9343(a) of Pub. L. 99-509, requires that the blended payment amount be based in part on, "the standard overhead amount payable with respect to the same surgical procedure as if it were provided in an ambulatory surgical center in the same area. . . ." Therefore, the wage index currently applicable to ASCs located in the same geographic area as the hospital must be used, not the wage index applicable to hospitals.

**Comment:** One commenter stated that since Medicare beneficiaries pay no deductibles or coinsurance when an ASC performs a procedure, but are liable for deductibles and coinsurance on procedures performed in hospitals, Medicare beneficiaries have an incentive to go to ASCs.

**Response:** Section 9343(e) of Pub. L. 99-509 repealed the prior law that provided for a waiver of the deductible and coinsurance requirements for procedures performed in ASCs. Thus, Medicare beneficiaries are liable for deductibles and coinsurance regardless of where the ambulatory surgical procedure is performed.

**Comment:** A hospital association commented that HCFA is not giving adequate recognition to requirements that hospitals install new coding systems, revise patient billing systems, and develop new cost reporting procedures. These new requirements will create problems for most hospitals, the commenter stated, especially hospitals with cost reporting periods that begin on October 1, 1987. The commenter recommended that HCFA adopt a transition period that would permit fiscal intermediaries to exercise substantial flexibility when a hospital makes a "good faith" effort to comply.

**Response:** As previously stated, the statutory date for implementation of this payment methodology is for hospital cost reporting periods beginning on or after October 1, 1987, and we do not have the authority to postpone the implementation. The most significant change that hospitals will have to make in order to comply with the requirements of section 9343 of Pub. L. 99-509 is the HCPCS requirement, which became effective on July 1, 1987. Thus, those hospitals whose next cost reporting periods begin on October 1, 1987 will have had at least three months to install the necessary coding under HCPCS before the method of payment for ambulatory surgical services will be affected.

**Comment:** A hospital association made an observation that because a

large number of services are provided in hospitals on an outpatient basis, a significant amount of the medical education of interns and residents takes place in outpatient ambulatory settings. The commenter stated that ASC payment rates do not recognize medical education costs and recommends that HCFA treat medical education costs relating to ambulatory surgical procedures as a pass-through cost.

**Response:** The conference report on section 9343 of Pub. L. 99-509 (H.R. Rep. No. 1012, 99th Cong., 2nd Sess. 355 (1986)) specifically states that, "no 'pass-through' is required for direct medical education costs because of the payment methodology established for these costs under section 1886(h) of the Act." Section 1886(h) of the Act, as added by the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99-272), enacted on April 7, 1986, sets forth a specific methodology regarding Medicare's payment for the direct graduate medical education costs of interns and residents. Thus, in the view of the Congress, the services of interns and residents performing services in outpatient ambulatory settings are adequately accounted for under section 1886(h) of the Act. That is, hospitals will be compensated for direct graduate medical education costs over and above the amounts paid for ambulatory surgical procedures under this rule.

**Comment:** One commenter recommended basing the cost portion of the blended payment amount on the hospital's previous year's costs in order to give hospitals an incentive to cut costs. This commenter believes that the legislative language permits the Secretary the discretion to determine the period on which the cost portion of the blend will be based.

**Response:** The payment methodology described in section 9343(a) of Pub. L. 99-509 is very specific. The accompanying conference report (H.R. Rep. No. 1012 at page 354) states that "Payments would be based on a comparison between the amount that would be paid to a hospital OPD [that is, an outpatient department] under section 1833(a)(2)(B) and a blended amount based on the amount that would be paid to an OPD under section 1833(a)(2)(B) and the payment that would be made to a free-standing ambulatory surgical center (ASC) under section 1833(i)(2)(A) \* \* \*. Under section 1833(a)(2)(B), services provided by an OPD are paid at the lesser of the reasonable cost for the service or the hospital's customary charge for the service \* \* \*." The reference to the amount that would be paid under section 1833(a)(2)(B) of the



Act can only be interpreted to mean current cost, since that is what "would be paid" absent the provisions of section 9343(a) of Pub. L. 99-509. If Congress had intended that costs other than the current period costs be used, then it could have provided that the hospital-specific portion of the blended payment amount be based on a prior period (base) amount as it did in the methodologies for the prospective payment system (section 1886(d) of the Act) and direct medical education costs (section 1886(h) of the Act).

**Comment:** A commenter recommended that we change the term "hospital-specific amount" to "current year cost amount" because the commenter concluded that the term "hospital-specific amount" is misleading and that the term is being used in an effort to create the impression that the payment methodology implementing section 9343(a) of the Pub. L. 99-509 is similar in operation to the inpatient hospital prospective payment system.

**Response:** The term "hospital-specific amount," as used in § 413.118 means the lesser of the hospital's reasonable cost or customary charges reduced by deductibles and coinsurance. This is specifically explained in § 413.118. To adopt the commenters suggestion that we use the term "current year cost amount" in place of "hospital-specific amount" would be inappropriate since we are referring to more than just costs. Furthermore, we intended no comparison with the hospital prospective payment system by use of the term.

**Comment:** A suggestion was made that the definition of "facility services" in § 413.118(b) should be clarified. The commenter believes that our definition of facility services, which references § 416.61 of the ASC regulations, is inadequate and will result in the improper inclusion of costs for services that are provided by a hospital that are unrelated to the ambulatory surgical procedure.

**Response:** Section 416.61 of our regulations defines "facility services" as those items and services provided by an ASC that would otherwise be covered under the Medicare program if furnished on an inpatient or outpatient basis in a hospital in connection with covered surgical procedures. We believe this definition is adequate. The Conference Committee report on section 9343 of Pub. L. 99-509 (at page 355) indicates that Congress anticipated that we would define the term "facility services" for purposes of hospital services in a manner that is comparable to the definition of the term in § 416.61. For

purposes of § 413.118(b), we adopted the definition contained in § 416.61.

**Comment:** One commenter suggested that we withdraw the proposed rule because other provisions of section 9343 of Pub. L. 99-509, for example, the requirement for HCPCS coding (section 9343(g)) and the requirement for the bundling of hospital outpatient services (section 9343(c)), which are related to the ASC payment methodology, described in the proposed rule, have not been issued in the form of regulations. The commenter noted that HCFA has implemented these other provisions of section 9343 of Pub. L. 99-509 through the issuance of program instructions.

**Response:** Program instructions were issued to provide program guidance concerning the ASC payment method for hospital outpatient procedures and the outpatient bundling requirements, and to implement the HCPCS coding requirements contained in section 9343 of Pub. L. 99-509. In the case of the instructions for the outpatient bundling requirements, the instructions were issued as an interim measure pending the issuance of regulations. A proposed rule concerning outpatient bundling provisions of section 9343(c) of Pub. L. 99-509 is currently under development and should be published shortly. It was determined that section 9343(g) of Pub. L. 99-509, which requires hospitals to use HCPCS, was self-implementing and, therefore, did not require implementing regulations. Program instructions were deemed the appropriate means to implement this provision of the law. We believe that implementation of the HCPCS coding requirements of section 9343(g) of Pub. L. 99-509 through program instructions is reasonable and consistent with rulemaking requirements. The use of program instructions provides guidance to hospital providers in order for them to comply with the law. In developing the program instructions for HCPCS, we consulted extensively with members of the hospital industry.

We see no reason to withdraw this rule and emphasize that proper rulemaking procedures have been followed.

The payment methodology provided in section 1833(i)(3) of the Act leaves very little room for discretion on our part. We again emphasize that we have no authority to delay implementing the payment methodology required by section 1833(i)(3) of the Act, which is effective for hospital cost reporting periods beginning on or after October 1, 1987.

**Comment:** One commenter questioned whether States would be required to

comply with the proposed rule for purposes of applying the upper payment limits to Medicaid outpatient services. The commenter noted that, if States are required to comply with these requirements for purposes of applying the upper payment limit to outpatient services, formidable system problems could prevent timely compliance and result in some States requesting a waiver from these requirements.

**Response:** Section 447.321 of the Medicaid regulations provides that the State agency may not pay more for hospital outpatient services than the combined payments the hospital receives from beneficiaries and intermediaries for providing comparable services under comparable circumstances under Medicare. Thus, §§ 413.13 and 413.118, as published in this final rule, will affect the upper payment limit calculations for Medicaid outpatient services.

**Comment:** One hospital association stated that the definition of "covered ambulatory surgical procedures" adopted in the intermediary instructions issued in July 1987 is not consistent with § 416.65 of our regulations to which the proposed rule refers. The commenter pointed out that § 416.65(b)(3)(iv) specifically states that covered surgical procedures may not be of a type that are generally emergency or life-threatening in nature. Therefore, the commenter expressed an opinion that ASC procedures performed on an emergency basis by hospitals should not be subject to the payment methodology described in this rule.

**Response:** We agree with the commenter to the extent that surgical procedures included on the list of ASC procedures specified by the Secretary under section 1833(i)(1)(A) of the Act and § 416.16 of the regulations are those procedures that can be performed safely in an ASC. Generally, therefore, ASC procedures, whether performed in an ASC or in a hospital outpatient setting, are not the type that are performed in life-threatening or emergency situations. Furthermore, we have no evidence that indicates that ASC procedures are performed in hospitals on an emergency basis or that, if they are performed in those situations, hospitals incur greater costs. Accordingly, we believe there is no need for an exception at this time. However, if evidence concerning this matter becomes available in the future and indicates that an exception for emergency services would be appropriate, we will propose changes to the regulations.



#### IV. Regulatory Impact Statement

##### A. Introduction

Executive Order (E.O.) 12291 requires us to prepare and publish a final regulatory impact analysis for any final rule that meets one of the E.O. criteria for a "major rule"; that is, that is likely to result in: an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In addition, we generally prepare a final regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a final rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we treat all hospitals as small entities.

Section 9343(a) of Pub. L. 99-509 provides the specific framework regarding payment for facility services related to ambulatory surgical procedures performed in hospitals on an outpatient basis. Accordingly, we did not prepare a regulatory impact analysis for the proposed rule published in the *Federal Register* on June 2, 1987. However, because this rule establishes the precise mechanisms for implementing the payment methodology and because of the substantial amount of money spent for outpatient surgical procedures, we did present an initial regulatory flexibility analysis with the proposed rule. Based on our initial analysis and the comments received in response to that analysis, we have determined and the Secretary certifies that this final rule is likely to have a significant economic impact on a substantial number of small entities. Our discussion below of the likely effects of this rule, together with our responses to comments received on the initial analysis, constitutes a final regulatory flexibility analysis.

##### B. Responses to Comments

Of the comments we received on the proposed rule, two commenters specifically contended that the initial regulatory flexibility analysis did not fully examine the effect of this rule.

*Comment:* One commenter stated that the initial regulatory flexibility analysis severely underestimated the magnitude

and cost of the changes that hospitals will have to make to their outpatient accounting, billing, and data processing systems in order to conform them to the HCPCS. This commenter argued that hospitals cannot implement these new procedures in the short timeframes allowed without risking significant disruption and cost to their operations.

*Response:* We disagree with the suggestion that our initial analysis 'glossed over' in any respect the substantial administrative costs that hospitals will incur in implementing HCPCS coding for reporting outpatient services. We devoted an entire section in the initial analysis (at 52 FR 20626), much of which is restated below at D, regarding the impacts of section 9343(g) of Pub. L. 99-509. We presented this discussion even though this rulemaking specifically concerns the implementation of section 9343(a) of Pub. L. 99-509. We did not describe the intricacies of the changes that hospitals will have to make to their systems, because we do not believe that the *Federal Register* is an appropriate forum for presenting that level of detail. Rather, we presented our analysis of the principal likely effects of HCPCS implementation. We also acknowledge that the timeframes that hospitals face in implementing this initiative are tight, although hospitals will have had at least 90 days to make these changes prior to the effective date of these rules. Finally, we believe that we have made a considerable effort to consult with the hospital industry and our intermediaries in order to implement HCPCS coding for outpatient services in the least burdensome manner possible. Our final instructions require no major rewriting of the internal financial accounting systems of hospitals. Nonetheless, we estimate the average implementation cost per hospital for HCPCS coding to be about \$21,500, with much smaller ongoing costs.

*Comment:* One commenter alleged that several possible impacts of this rule were not fully acknowledged in the initial analysis. The commenter identified the following as possible effects of this rule:

- Hospitals (both urban and rural) will discontinue providing the procedures subject to this rule because the payment methodology guarantees that they will lose money;
- Some hospitals will hire surgeons in order to subsidize through collection of surgical professional fees the losses incurred due to HCFA's low facility payment rates;
- Surgeons will relocate to more heavily populated areas where they can set up high-volume, low-cost ASCs;

- The development of advanced medical technology will be stifled; and

- In those instances in which hospitals discontinue providing the outpatient surgical services in question, beneficiaries will have to travel further to ASCs to obtain care and may well opt to not have surgery.

*Response:* We do not believe that the payment methodology "guarantees" that hospitals will lose money, because these rules allow hospitals to be paid under section 1833(a)(2)(B) of the Act when appropriate. In general, to the extent that hospitals are able to economize and cut unnecessary costs in their outpatient departments, ensuring that their costs are below the blended amount (and thus competitive with ASCs), then hospitals will not lose money under the new methodology; they would in this case be paid in the same manner as before, based on the lower of their costs or charges.

It is possible that some hospitals will scale back their services somewhat, without completely discontinuing all outpatient surgical procedures. While we acknowledge that in some cases hospitals may discontinue providing ambulatory surgical services, we do not believe that this will generally prove to be the case. As noted above, we did state in the initial analysis (at 52 FR 20626) that, in such instances, beneficiaries could experience reduced access to care.

We acknowledge that hospitals may choose to hire surgeons for their outpatient facilities; they may do so already. Hospitals would, however, be compensated for these physicians' services under the regulations governing compensation for hospital-based physicians (§§ 405.550-405.551). In order to avoid that, a hospital might be able to create an ambulatory surgical center as a wholly-owned subsidiary—the facility costs of which might be reimbursed under the rules governing payment to ASCs. In fact, both of these options may currently be pursued by hospitals and, while this final rule may encourage one choice or the other in some instances, we believe these decisions are largely determined by external factors (for example, the availability of surgeons who are willing to work for a salary, etc.). Similarly, we believe that any incentives that physicians have to move to urban areas and set up high-volume ASCs are not the result of these rules.

Finally, we note that the incentives hospitals face to cut their outpatient facilities costs in response to this rule are not inconsistent with using more effective, low-cost alternative technologies in the outpatient setting.



### C. Program Payments

The purpose of section 9343(a) of Pub. L. 99-509 is to bring Medicare payments for the facility component of covered ambulatory surgical procedures performed in a hospital on an outpatient basis more in line with facility payments made to freestanding ASCs. Prior to the changes described in this rule, the various providers of ambulatory surgical services have been paid under different methodologies and, consequently, have had different incentives to contain costs. While freestanding ASCs have been paid for their facility costs on the basis of set rates, and have thus had strong financial incentives to economize and cut costs, hospital outpatient departments have been paid based on reasonable costs. These costs have not been subject to any limitations comparable to the cost constraints imposed on services provided by hospital inpatient departments, skilled nursing facilities or home health agencies. Thus, hospitals have had little incentive to contain expenditure relating to outpatient services for the purpose of making improvements in the efficiency of their operations. Implementation of the various provisions of section 9343 of Pub. L. 99-509 should place the sources of ambulatory surgical services on a more equal, competitive footing, and introduce incentives for hospital economy and efficiency for outpatient services just as the prospective payment system did for inpatient hospital services.

Anecdotal evidence indicates that it is reasonable to assume that nearly all of the \$1.18 billion expended in 1985 for surgical procedures performed in hospital outpatient departments were for services related to the procedures listed on the recently published list of covered ambulatory surgical procedures. The expanded list has been designed to exclude as much as possible those procedures that are most appropriately performed on an inpatient basis or that are doctors' office procedures.

The initial aggregate effect of this final rule upon hospitals will be a decrease in Medicare program payments. We are, however, not able to quantify this reduction precisely. Since hospital outpatient costs and charges for certain covered ambulatory surgical services will be compared to a blended amount based, in part, on ASC facility rates for the same services, a precise estimate would require an ability to identify existing differences between those rates and hospital costs or charges. However, ASC facility rates are paid only for certain services identified by the Physicians Current Procedural

Terminology, Fourth Edition (CPT-4), which is incorporated into the HCFA Common Procedure Coding System code (HCPCS). Hospital outpatient costs and charges have not yet been reported or analyzed under this procedure coding system. Therefore, we cannot determine definitely either the portion of Medicare payments for outpatient hospital services attributable to covered ambulatory surgical procedures, or, more importantly, the difference in level of payment for given services based on site of service. For these same reasons, we cannot specifically identify what the impact of this payment change will be on rural hospitals.

The expected decrease in Medicare program payments will become more pronounced after October 1, 1988, when the increase in the ASC payment amount component of the blended payment amount, mandated by Pub. L. 99-509, takes effect. This change will result in intensified incentives for hospitals to contain costs, and, to the extent that hospitals reduce their costs to greater parity with the ASC facility prospective payment rates, the change should control the rate at which Medicare expenditures for these services are growing.

The reduction in Medicare payments to hospitals for outpatient surgical procedures will be somewhat lessened by the increase in ASC payment rates required by section 9343(b)(1) of Pub. L. 99-509 and published in the Federal Register in a notice with comment period on June 1, 1987 (52 FR 20466). The ASC payment rate updates became effective on July 1, 1987, and the law requires us to update them annually thereafter.

### D. Administrative Costs

In order for this final rule to be fully implemented, it is first necessary to have section 9343(g) of Pub. L. 99-509 implemented. That section requires hospitals that report claims for payment for hospital outpatient services to use a HCFA common procedure coding system (HCPCS), which is the coding system in use by ASCs. In fulfilling the requirements set forth in section 9343(g) of Pub. L. 99-509, we will be concurrently fulfilling the requirement set forth in section 9343(a) of Pub. L. 99-509 that all covered ASC surgical procedures performed in a hospital on an outpatient basis during a cost reporting period be aggregated and treated separately from other services. We acknowledge that hospitals that provide surgical services in their outpatient departments and Medicare fiscal intermediaries will incur substantial administrative costs in

implementing HCPCS, as noted earlier in our responses to comments. So as to conform to the requirements of this rule, hospitals will need to make certain changes to their accounting and billing systems. The effect upon an individual hospital will vary depending upon its staff's ability to incorporate these changes into their accounting and outpatient billing systems, the overall adaptability of the hospital's accounting staff and outpatient personnel, and the hospital's size.

It can be reasonably assumed that the larger hospitals will experience a smaller overall administrative expense increase on a per case basis than will their smaller counterparts, because of economies of scale, relative resources, and sophistication of their accounting systems. Accordingly, the effect should be more pronounced among smaller hospitals, because the cost of these administrative changes will be allocated to a smaller number of cases. Similarly, because rural hospitals tend to be smaller hospitals, it may be that the administrative cost per case of these changes will be higher for rural hospitals than the average.

The effect upon an individual intermediary will vary depending on its staff's ability to expeditiously instruct the hospitals within its jurisdiction about these changes and to integrate these changes effectively and efficiently into their own operating environment. Also, the effect of these changes on intermediaries will be mitigated to the extent that HCFA reimburses them for the costs incurred. HCFA normally reimburses intermediaries for changes of this nature on a reasonable cost basis for cost contractors and through the change order process for fixed price contractors.

### E. Impact on Beneficiaries

In the past, beneficiaries were not liable for Medicare Part B deductible and coinsurance amounts for ASC facility services, but they were liable for deductible and coinsurance amounts for hospital outpatient services. However, section 9343(e) of Pub. L. 99-509 provides that, effective July 1, 1987, coinsurance and deductibles are to apply to ASC facility services, too. Thus, for services furnished in either an ASC or a hospital outpatient department on or after July 1, 1987, a beneficiary will be liable for up to \$75 of any unmet deductible obligation, plus 20 percent of either the applicable ASC facility rate or the hospital's customary charge. (If a hospital meets the collection effort requirements of our regulations at § 413.80, we will reimburse the hospital



for the uncollectible Medicare ban debts it incurs related to provision of covered ambulatory surgical services.)

This payment method reinforces the incentive that hospitals already have to set their charges at levels equal to or greater than costs, so that they do not experience disallowances of a portion of their costs under the LCC principle. However, this rule will introduce a new incentive for hospitals to cut their facility costs per case to a level that is competitive with the ASC facility payment rates. This may in turn lead to lower prices for covered ambulatory surgical procedures performed in hospitals to the benefit of Medicare beneficiaries. In addition, in order to increase their ambulatory surgery market share, hospitals can market their outpatient services effectively, partially competing on a price basis, but also marketing their patient-staff relationship, reputation, and convenience of access, rather than focusing on cost as the sole criterion. If this competition leads to improved levels of service, then beneficiaries will also benefit. However, if a hospital were to determine that it could not compete effectively, possibly causing it to discontinue or reduce its ambulatory surgical services, beneficiaries could experience reduced access to services in the affected locality.

#### F. Shifted Incentives and Market Effects

Ambulatory surgery is a dynamic and growing market that has grown because often it is more economical to furnish surgical services in settings other than hospital inpatient departments. The main participants in this market are ACSs, doctors' offices where these services are furnished, and hospitals that furnish these services on an outpatient basis. Increasingly, ASCs have been receiving a larger share of this overall market. They have shown explosive growth, beginning in September 1982 with 20 ASCs and growing to 690 ASCs by December 1986. This is a 3,310 percent increase in a four-year period.

Although we do not have systematic program data on comparative costs we believe that ASCs typically have lower fixed costs than do hospitals. The growth of ASCs appears to be partially attributable to this factor. If hospitals' fixed costs continue to rise relative to ASCs, they will be at a greater competitive disadvantage. If, on the other hand, hospitals can cut their fixed costs to a level approximating the facility rates which ASCs are paid when providing the same service, then hospitals may obtain a competitive advantage. This will occur because

beneficiaries now have to pay deductibles and coinsurance for surgical services received in an ASC, which was not the case prior to July 1, 1987. Overall, it is difficult to determine how this rule will affect the outcome of this competition between ASCs and hospitals in any given case. Obviously, those hospitals in areas with few or no ASCs will not be subject to the same pressures as hospitals in other areas.

#### G. Conclusion

Although this final rule could adversely affect most hospitals in their immediate expectations of revenues, it will generally benefit the development of a healthy market for the delivery of ambulatory surgical services. Medicare beneficiaries should benefit as the result of lower prices for covered ASC surgical procedures performed in hospitals on an outpatient basis, although in some instances, beneficiaries may face reduced access to care in the event that some hospitals curtail their outpatient surgical services. The Medicare program itself would benefit as a result of program savings that would enhance the viability of the Medicare trust fund. In addition, we expect to gain additional knowledge regarding actual resource utilization for outpatient surgical services through implementation of this rule. This is a necessary step towards implementation of a prospective payment system for outpatient services performed in hospitals. In sum, we expect the advantages achievable as the result of this rule to outweigh any resulting costs or disadvantages.

#### V. Other Required Information

##### A. Paperwork Burden

This rule would not impose information collection requirements; consequently, it need not be reviewed by the Executive Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3511).

##### B. Waiver of 30-day Delay in the Effective Date

Generally, we publish rules and notices thirty days prior to their effective date. However, we may waive this procedure if it would be impractical, unnecessary or contrary to the public interest.

In this rule we are implementing section 9343(a) of Pub. L. 99-509, which sets forth the revised methodology that will be used to determine Medicare payment for facility services furnished in a hospital on an outpatient basis in connection with covered ASC surgical procedures. Section 9343(a) of Pub. L.

99-509 is very specific as to the methodology that is to be used to calculate these payments and requires that this methodology be effective for hospital cost reporting periods beginning on or after October 1, 1987. The regulatory changes issued in this final rule in §§ 413.113 and 413.118 conform our regulations to the statute. These changes are the same as those proposed on June 2, 1987. Because of the explicit Congressional direction contained in the statute and the need to implement these changes on October 1, 1987, we believe that a delay in the effective date of this final rule is unnecessary and would be contrary to the public interest. Therefore, we find good cause to waive the normal 30-day delay in the effective date.

#### List of Subjects in 42 CFR Part 413

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Nursing homes, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 413 is amended as set forth below:

#### PART 413—PRINCIPLES OF REASONABLE COST REIMBURSEMENT; PAYMENT FOR END-STAGE RENAL DISEASE SERVICES

A. The authority citation for Part 413 continues to read as follows:

Authority: Secs. 1102, 1122, 1814(b), 1815, 1833(a), 1861(v), 1871, 1881 and 1886 of the Social Security Act as amended (42 U.S.C. 1302, 1320a-1, 1395f (b), 1395g, 1395l(a), 1395x(v), 1395hh, 1395rr, and 1395ww).

B. In § 413.13, paragraph (c) is redesignated as paragraph (c)(1) and a new paragraph (c)(2) is added to read as follows:

#### Subpart A—Introduction and General Rules

§ 413.13 Amount of payments if customary charges for services furnished are less than reasonable costs.

\* \* \* \* \*

(c) Aggregation of charges.

\* \* \* \* \*

(2) Hospital Cost reporting periods beginning on or after October 1, 1987. Effective for hospitals with cost reporting periods beginning on or after October 1, 1987, reasonable costs and customary charges for those services relating to ambulatory surgical procedures that are subject to the payment methodology described in § 413.118 are aggregated and treated



separately from all other hospital costs and charges incurred during the cost reporting period.

C. Subpart F is amended as follows:

#### Subpart F—Specific Categories of Costs

1. The table of contents for Subpart F is amended by adding a title for a new § 413.118 to read as follows:

#### Subpart F—Specific Categories of Costs Sec.

§ 413.118 Payment for facility services related to covered ASC surgical procedures performed in hospitals on an outpatient basis.

2. A new § 413.118 is added to read as follows:

§ 413.118 Payment for facility services related to covered ASC surgical procedures performed in hospitals on an outpatient basis.

(a) *Basis and Scope.* This section implements section 1833(a)(3) of the Act and establishes the method for determining Medicare payments for services related to covered ambulatory surgical center (ASC) procedures performed in a hospital on an outpatient basis. It does not apply to services furnished by an ASC operated by a hospital that has an agreement with HCFA to be paid in accordance with § 416.30 of this chapter. (For regulations governing ASCs see Part 416 of this chapter.)

(b) *Definitions.* For purposes of this section—

"Facility services" are those items and services, as specified in § 416.61 of this chapter, that are furnished by a hospital on an outpatient basis in connection with covered ASC surgical procedures, as described in § 416.65 of this chapter.

"Standard overhead amount" means an amount equal to the prospectively determined payment rate that would be paid for the procedure if it had been furnished by an ASC in the same geographic area.

(c) *Payment principle.* The aggregate amount of payments for facility services, furnished in a hospital on an outpatient basis, that are related to covered ASC surgical procedures (covered under § 416.65 of this chapter) is equal to the lesser of—

(1) The hospital's reasonable cost or customary charges, as determined in accordance with § 413.13, reduced by deductibles and coinsurance; or

(2) The blended payment amount as described in paragraph (d) of this section, which is based on hospital-

specific cost and charge date and rates paid to free-standing ASCs.

(d) *Blended payment amount.* (1) For cost reporting periods beginning on or after October 1, 1987 but before October 1, 1988, the blended payment amount is equal to the sum of—

(i) 75 percent of the hospital-specific amount (the lesser of the hospital's reasonable cost or customary charges, reduced by deductibles and coinsurance); and

(ii) 25 percent of the ASC payment amount (that is, 80 percent of the result obtained by subtracting the deductibles from the sum of the standard overhead amounts.)

(2) For cost reporting periods beginning on or after October 1, 1988, the blended payment amount is equal to 50 percent of the hospital-specific amount and 50 percent of the ASC payment amount.

(e) *Aggregation of cost, charges, and the blended amount.* For purposes of determining the correct payment amount under paragraphs (c) and (d) of this section, all reasonable costs and customary charges attributable to facility services furnished during a cost reporting period are aggregated and treated separately from the reasonable costs and customary charges attributable to all other services furnished in the hospital.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance; No. 13.774, Medicare Supplementary Medical Insurance)

Dated: September 18, 1987.

William L. Roper,

Administrator, Health Care Financing Administration.

Approved: September 21, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-22783 Filed 9-29-87; 2:12 pm]

BILLING CODE 4120-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 0

#### Amendment of Regulations Pertaining to Requests for Copies of Materials Which Are Available

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** The Commission is acting to administratively amend the regulations pertaining to copying materials which are available, or made available, for public inspection. The revisions correct inconsistencies between the text of the

Commission's Rules and the language subsequently adopted in the interagency agreement negotiated with the National Technical Information Service, Department of Commerce, which implements the policy contained in this Rule.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Terry D. Johnson, (202) 634-1535.

#### SUPPLEMENTARY INFORMATION:

##### Order

In the matter of amendment of regulations pertaining to requests for copies of materials which are available, or made available, for public inspection.

Adopted: September 28, 1987.

Released: September 30, 1987.

By the Managing Director:

1. Pursuant to authority delegated to him under § 0.231(d) of the Commission's Rules, the Managing Director proposes to make a few nonsubstantive editorial amendments to § 0.465 of the Commission's Rules.

2. Section 0.465(d)(3) is being revised to correct inconsistencies between the text of the Commission's Rules and the language subsequently adopted in the interagency agreement negotiated with the National Technical Information Service, Department of Commerce, which implements the policy contained in this Rule.

3. Accordingly, it is ordered, that, pursuant to sections 4(i) and 4(j) of the Communications Act of 1934, as amended, 47 CFR Part 0 is amended as specified in the Appendix attached hereto, effective upon publication in the Federal Register.

#### List of Subjects in 47 CFR Part 0

Freedom of information, Organization and functions.

Alan R. McKie,

Deputy Managing Director.

#### Appendix

47 CFR Part 0 is amended as follows:

#### PART 0—COMMISSION ORGANIZATION

1. The authority citation for Part 0 continues to read:

Authority: 47 U.S.C. 154, 303, unless otherwise noted. Implement; 5 U.S.C. 552, unless otherwise noted.

2. Section 0.465 is amended by revising the text of paragraph (d)(3) to read as follows:



**§ 0.465 Request for copies of materials which are available, or made available, for public inspection.**

(d)(3) Copies of computer source programs and associated documentation produced by the Commission shall be obtained through the National Technical Information Service (NTIS), Department of Commerce. NTIS will forward each request to the Commission. If it can be determined that the requested program is available, the Commission will distribute the current edition to the requester. NTIS will act as billing agent for the Commission. NTIS will bill the requester for the direct costs of production plus their overhead based on billing information provided by the Commission. Estimates of the total cost may be obtained from NTIS in advance. NTIS will not stock Commission source programs and documentation, nor will they maintain a catalog of Commission computer programs that may be available due to the large volume of programs and the frequency with which they are revised. Requests shall be limited to computer source programs and associated documentation in existence when the request is submitted; requests which require the Commission to produce unique computer programs, data bases and documentation, which are not part of its inventory at the time of the request, will not be honored. Likewise, periodic updates of these materials, as they occur, will not be furnished.

[FR Doc. 87-22755 Filed 9-30-87; 8:45 am]  
BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 86-390; RM-5419]

#### Radio Broadcasting Services; Northwood, IA

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots FM Channel 274A to Northwood, Iowa as that community's first FM channel in response to a petition filed by Northwood Broadcasting Co., Inc. With this action, this proceeding is terminated.

**DATES:** Effective November 12, 1987. The window period for filing applications will open on November 13, 1987, and close on December 14, 1987.

**FOR FURTHER INFORMATION CONTACT:** D. David Weston, Mass Media Bureau (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 86-390, adopted August 25, 1987, and released September 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

#### PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303.

#### § 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments is amended by adding the entry of Channel 274A to Northwood, Iowa.

Federal Communications Commission.  
Mark N. Lipp,  
Chief, Allocations Branch, Mass Media Bureau.  
[FR Doc. 87-22680 Filed 9-30-87; 8:45 am]  
BILLING CODE 6712-01-M

#### DEPARTMENT OF DEFENSE

#### 48 CFR Parts 204, 223, and 252

#### Defense Federal Acquisition Regulation Supplement; Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives at Contractor Facilities

**AGENCY:** Department of Defense (DoD).

**ACTION:** Extension of interim rule and request for comments.

**SUMMARY:** The Defense Acquisition Regulatory Council has revised and extended the expiration date of the interim rule published in the *Federal Register* on November 21, 1986 (51 FR 42095), presently in effect, which pertains to security of arms, ammunition and explosives at contractor facilities.

**DATES:** This interim rule is effective October 1, 1987, and expires on September 30, 1988, unless sooner rescinded.

**Comments:** Interested parties are invited to submit written comments on or before November 30, 1987, to the Executive Secretary, DAR Council, at the address below. Comments received

will be considered in revising the interim rule which will be implemented by Departmental guidance. Please cite DAR Case 85-102 in all correspondence related to this subject.

**Note.**—If commenters choose to hand-carry comments to the DAR Council Office at 1211 South Fern Street, Arlington, VA, arrangements for hand-carried comments must be made with the DAR Council Staff Members. Security Guards at this location are not permitted to accept or sign for hand-delivered comments of any kind.

**ADDRESS:** Interested parties should submit written comments to: Defense Acquisition Regulatory Council, ATTN: Mr. Charles W. Lloyd, Executive Secretary, ODASD(P)/DARS, c/o OUSD(A)(MRS), Room 3D139, The Pentagon, Washington, DC 20301-3062.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council, telephone (202) 697-7266.

#### SUPPLEMENTARY INFORMATION:

##### A. Background

This document extends the expiration date and revises an interim rule published for public comment on November 21, 1986 (51 FR 42095), which requires that the physical security requirements of DoD Instruction 5220.30 be incorporated by reference in contracts involving manufacture or use of arms, ammunition, and explosives (AA&E). This extension is necessary to allow sufficient time to revise and publish a DoD Manual on this subject (DoD 5100.76-M, "Physical Security of Sensitive Conventional AA&E") which will contain AA&E physical security standards applicable to DoD contracts. It is anticipated that the manual will be published in June 1988 and made available to the public through the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Upon publication, this rule will be modified and final DFARS coverage adopted.

In response to a request by the Office of the Inspector General, DoD, the contract clause prescribed by the rule has been revised to permit access by representatives of that office to contractor facilities to review compliance. No other revisions to the rule were suggested by the public or by DOD agencies.

Although Pub. L. 98-577 does not require additional publication for public comment, interested parties may submit comments which will be considered in drafting a final rule.



**B. Regulatory Flexibility Act**

The interim rule incorporates by reference, in standard contract format, requirements which have been prescribed previously by the Treasury Department and by the DoD pursuant to statutory authority, and which have been applicable to DoD contracts since 23 September, 1980. However, recent investigations by the DoD IG revealed a lack of uniform compliance by DoD contracting officers in incorporating the appropriate physical security standards in contracts. This interim rule establishes uniform procedures for use by Government personnel in implementing these long standing procedures. Accordingly, the Department certifies that this rule will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq. A regulatory flexibility analysis has therefore not been performed. Comments are invited from small entities and other interested parties.

**C. Paperwork Reduction Act**

The interim rule incorporates previously established information collection requirements within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., as implemented by regulations prescribed within 5 CFR Part 1320, and does not require additional information collection efforts by contractors. Accordingly, the Act is inapplicable and approval by OMB of the interim rule is not required. Notwithstanding the inapplicability of the Act, the interim rule has been adopted in a manner consistent with DoD policy of reducing paperwork burdens on the public by directing that contracting officers provide a copy of DoDI 5220.30 to contractors/offers upon request. Additionally, the DoDI incorporates BATF standards published in 27 CFR Part 55 which are not otherwise readily available to contractors.

**List of Subjects in 48 CFR Parts 204, 223 and 252****Government procurement.**

Charles W. Lloyd,

Executive Secretary, Defense Acquisition Regulatory Council.

Therefore, the DoD FAR Supplement contained in 48 CFR Parts 204, 223 and 252 is amended as set forth below.

1. The authority citation for 48 CFR Parts 204, 223 and 252 continues to read as follows:

Authority: 5 U.S.C. 301, U.S.C. 2202, DoD Directive 5000.35, and DoD FAR Supplement 201.301.

**PART 204—ADMINISTRATIVE MATTERS**

2. Section 204.202 is amended by adding to paragraph (c), paragraph (6) to read as follows:

**204.202 DoD distribution requirements.**

\* \* \* \* \*

(c) \* \* \*

(6) One copy or an extract to the cognizant Defense Investigative Service (DIS) office as listed in DoDI 5220.30, Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives at Contractor Facilities whenever the clause prescribed at 223.7103 is included in the contract.

\* \* \* \* \*

3. Section 204.470 is added to read as follows:

**204.470 Physical security of conventional arms, ammunition, and explosives.**

Policies and procedures regarding physical security requirements peculiar to selected Conventional Arms, Ammunition, and Explosives are addressed in Subpart 223.71.

**PART 223—ENVIRONMENT, CONSERVATION, AND OCCUPATIONAL SAFETY**

4. A new Subpart 223.71, consisting of §§ 223.7100 through 223.7105, is added to read as follows:

**Subpart 223.71—Safeguarding Conventional Arms, Ammunition, and Explosives Within Industry**

Sec.

- 223.7100 Scope of subpart.
- 223.7101 Definitions.
- 223.7102 Policy.
- 223.7103 Preaward responsibilities.
- 223.7104 Notification to DIS.
- 223.7105 Clause.

**Subpart 223.71—Safeguarding Conventional Arms, Ammunition, and Explosives Within Industry****223.7100 Scope of subpart.**

This subpart prescribes policy, procedures, responsibilities and requirements for safeguarding Conventional Arms, Ammunition, and Explosives (AA&E) located at contractor or subcontractor facilities.

**223.7101 Definitions.**

Conventional arms, ammunition, and explosives as used in this subpart means only those items covered by DoDI 5220.30, Physical Security of

Sensitive Conventional Arms, Ammunition, and Explosives at Contractor Facilities. In general, these items include sensitive (attractive to criminal elements), conventional (non-nuclear) material which are man portable and easily employed with little modification, or associated firing components.

**223.7102 Policy.**

The physical security requirements of DoDI 5220.30, "Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives at Contractor Facilities," are to be applied to all contracts involving conventional AA&E.

**223.7103 Preaward responsibilities.**

(a) Technical or requirements organizations initiating purchase requests must identify when AA&E is involved and which physical security requirements in DoDI 5220.30 apply; and

(b) The contracting officer prior to award of a contract involving AA&E shall request the cognizant Defense Investigative Service (DIS) Industrial Security office to evaluate and certify the prospective contractor's ability to safeguard AA&E consistent with DoDI 5220.30. This should be accomplished as part of the normal Preaward Survey process by completing Item "G" Section III and Block 23 of the Standard Form 1403.

**223.7104 Notification to DIS.**

Whenever the clause at 252.223-7003 is included in a contract, the contracting activity shall provide an extract or a copy of the contract to the cognizant DIS office (see 204.202(c)(6)).

**223.7105 Clause.**

The contracting officer shall insert the clause at 252.223-7003, Safeguarding Arms, Ammunition, and Explosives in all solicitations and contracts involving an AA&E covered by DoDI 5220.30. The clause need not be included in contracts performed in Government-Owned Contractor Operated ammunition production facilities. The contracting officer shall provide a copy of DoDI 5220.30 to each contractor/offers upon request.

**PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES**

5. Section 252.223-7003 is added to read as follows:



252.223-7003 *Safeguarding arms, ammunition, and explosives.*

As prescribed at 223.7105, insert the following clause:

**Safeguarding Arms, Ammunition, and Explosives (Oct 1987)**

(a) The Contractor shall comply with the applicable requirements of Enclosure (2) to DoDI 5220.30, entitled "Physical Security of Sensitive Conventional Arms, Ammunition, and Explosives at Contractor Facilities," in effect on the date of award of this contract. A copy of the DoD Instruction is available from the contracting officer upon request.

(b) The Contractor shall allow representatives of the Defense Investigative Service (DIS) and the Office of the Inspector General, DoD, access, at all reasonable times, into its facilities for purposes of reviewing its compliance with the physical security standard applicable to this contract.

(c) The Contractor shall insert this clause, including this paragraph (c) with appropriate changes in the designation of the parties, in all subcontracts hereunder which involve Conventional Arms, Ammunition, and Explosives (AA&E) as defined in section 223.7101 of the DoD FAR Supplement.

(d) The Contractor shall provide a copy of any subcontract involving AA&E to the cognizant DIS office within ten (10) days after issuance of the subcontract.

(e) Nothing contained herein shall relieve the Contractor from complying with applicable Federal, state and local laws, ordinances, codes and regulations (including the obtaining of licenses and permits) in connection with performance of this contract. Nothing contained herein shall be construed as relieving the Contractor from its responsibilities for the physical security at contractor or subcontractor facilities.

(End of clause)

[FR Doc. 87-22590 Filed 9-30-87; 8:45 am]

BILLING CODE 3810-01-M

**DEPARTMENT OF THE INTERIOR****Fish and Wildlife Service****50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Correction of Rules for Bay Checkerspot Butterfly and Cape Fear Shiner; Correction**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule; corrections.

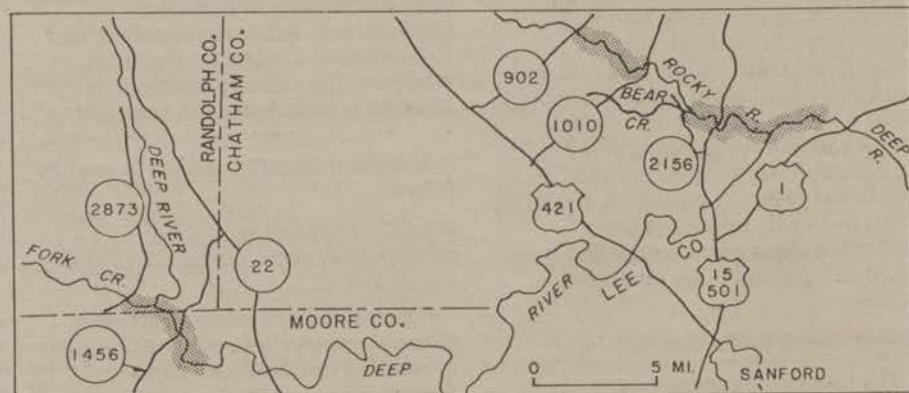
**SUMMARY:** This notice corrects errors in two recent rules: (1) The Bay Checkerspot Butterfly determination as endangered on September 18, 1987 (52 FR 35366-35378) and (2) the Cape Fear Shiner determination as threatened and of critical habitat on September 25, 1987 (52 FR 36034-36039).

**FOR FURTHER INFORMATION CONTACT:** Mr. William Knapp, Acting Chief, Office

of Endangered Species (500 Broyhill), U.S. Fish and Wildlife Service, Washington, DC 20240 (703-235-2771, FTS 235-2771).

**SUPPLEMENTARY INFORMATION:** The following corrections are made to these two documents.

1. In rule document 87-21603 at page 35369 in the issue of Friday, September 18, 1987, the first sentence at the top of the page, first column, is correctly amended to read "... private property that is mostly closed to trespass ...".



Dated: September 25, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-22692 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-55-M

**50 CFR Part 17****Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Hualapai Vole**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The Service determines endangered status for the Hualapai vole (*Microtus mexicanus hualpaiensis*), a small mammal found in northwestern Arizona. It is very rare and occupies small patches of suitable habitat that are threatened by livestock grazing, human recreation, and other problems. This rule implements the protection of the Endangered Species Act of 1973, as amended, for the Hualapai vole.

**EFFECTIVE DATE:** The effective date of this rule is November 2, 1987.

**§ 17.11 [Amended]**

2. The scientific name for the § 17.11(h) entry for the "Butterfly, bay checkerspot" is correctly added to read "*Euphydryas editha bayensis*".

3. The column "Vertebrate population where endangered or threatened" for the § 17.11(h) entry for the "Butterfly, bay checkerspot" is correctly added by the insertion of "NA" for this invertebrate.

4. The map published in rule document 87-22268 in the issue of Friday, September 25, 1987, is correctly revised to appear as follows:

**ADDRESS:** The complete file for this rule is available for inspection, by appointment, during normal business hours at the Service's Regional Office of Endangered Species, 500 Gold Avenue SW., Room 4000, Albuquerque, New Mexico.

**FOR FURTHER INFORMATION CONTACT:** Alisa M. Shull, Endangered Species Biologist, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

**SUPPLEMENTARY INFORMATION:****Background**

The Mexican vole (*Microtus mexicanus*) occurs in Mexico and the southwestern United States; there are 12 subspecies (Hall 1981). It is a small, cinnamon-brown, mouse-sized mammal with a short tail and long fur that nearly covers its small, round ears. There are three subspecies in Arizona, including the Hualapai vole (*M. m. hualpaiensis*), which is the subject of this rule. The Hualapai vole is distinguished from *M. m. mogollonensis*, found to the east, by paler color of the dorsum, a shorter body, a shorter and broader skull, and a longer tail and hind foot. It is distinguished from *M. m. navaho*, found



to the northeast, by generally larger size, a longer and broader skull, and a longer tail, body, and hind foot.

Five adult specimens averaged 5.4 inches (137.2 millimeters) in head and body length, and 1.2 inches (30.2 millimeters) in tail length (Hoffmeister 1986).

Goldman (1938) described *M. m. hualpaiensis* on the basis of 4 specimens collected near the summit of Hualapai Peak in northwestern Arizona on October 1, 1923. Including these 4, a total of 15 individuals of the subspecies are now known to have been captured in the Hualapai Mountains. Nine of these are now preserved specimens. The 15 individuals were found in seven isolated localities over 61 years from 1923 through 1984.

Six voles that might possibly represent *M. m. hualpaiensis* have been collected from outside the Hualapai Mountains. Four were collected in 1981 in the Music Mountains, about 50 miles (80 kilometers) north of Hualapai Peak, but have not yet been subjected to taxonomic evaluation (Spicer *et al.* 1985). The population represented is small, and its habitat is isolated, restricted, and subject to the same degradation as habitat in the Hualapai Mountains. Hoffmeister (1986) tentatively (pending a larger sample size) reassigned two specimens collected in Prospect Valley in 1913, and previously classified as *M. m. mogollonensis*, to *M. m. hualpaiensis*. Prospect Valley is almost 90 miles (145 kilometers) northeast of the Hualapais. Reassignment was based on body and skull measurements that are closer to *M. m. hualpaiensis* than to the geographically closer *M. m. navaho*. Hoffmeister did suggest, however, that a larger sample from Prospect Valley might indicate that the two specimens "... are referable to *M. m. navaho* to which on a geographical basis they would seem referable." Due to the taxonomic uncertainty surrounding these two specimens, and their disjunct geographic distribution, their classification as *M. m. hualpaiensis* is tenuous. Even if the specimens are *M. m. hualpaiensis*, over 73 years have passed without additional records from that locality, and any represented population may no longer be extant. The Service will continue to investigate the possibility of additional specimens and localities. If the Music Mountains voles and/or the Prospect Valley voles are determined to be *M. m. hualpaiensis*, they would be covered by this rule determining endangered status for the subspecies.

The lands where *M. m. hualpaiensis* or its sign have been found consist of

both publicly and privately owned areas. The Hualapai Mountains locations include Mohave County Parks lands, Santa Fe Pacific Railroad Company land, and other publicly or privately owned land. Except for the Mohave County Parks land, the sites are managed as part of larger grazing allotments by the Bureau of Land Management (BLM). That agency is giving consideration to the welfare of the vole and is attempting to acquire one of the key sites in the Hualapai Mountains that is now privately owned. The sites in the Music Mountains are already owned and managed by BLM.

In the Hualapai Mountains, *M. m. hualpaiensis* has been found between about 5,397 and 8,400 feet (1,645 and 2,560 meters) in elevation. *Microtus mexicanus* in the Southwest is primarily associated with dry, grass/forb habitats in ponderosa pine dominated forest. Although the Hualapai vole is now found only in moist, grass/sedge along permanent or semipermanent waters (such as springs and seeps) it may be capable of occupying drier areas when grass/forb habitats are available there. The populations of *Microtus* in the Hualapai Mountains and the Music Mountains are disjunct relicts from Pleistocene times. The Hualapai vole may have become isolated when North American glaciers were retreating and the climate was becoming warmer and drier (Spicer *et al.* 1985).

In its original Review of Vertebrate Wildlife, published in the Federal Register of December 30, 1982 (47 FR 58454-58460), the Service included the Hualapai vole in category 2, meaning that information then available indicated that a proposal to determine endangered or threatened status was possibly appropriate, but was not yet sufficiently substantial to support such a proposal. A subsequent Service-funded status survey (Spicer *et al.* 1985) gathered many new data, and in its revised Vertebrate Review of September 18, 1985 (50 FR 37958-37967), the Service included the Hualapai vole in category 1, meaning that substantial information was on hand to support the biological appropriateness of proposing to list as endangered or threatened. In the Federal Register of January 5, 1987 (52 FR 306-309), the Service published a proposed rule to determine endangered status for the Hualapai vole.

#### Summary of Comments and Recommendations

In the proposed rule of January 5, 1987 (52 FR 306-309), and associated notifications, all interested parties were requested to submit information that might contribute to the development of a

final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the *Mohave Daily Miner* on January 25, 1987, which invited general public comment.

Three comment letters were received and all supported the proposal; they were from the Bureau of Land Management (BLM), the Arizona Game and Fish Department (AGFD), and the Arizona Chapter of the Wildlife Society. Clarifications of several points were requested and have been incorporated into the final rule. In addition the commenters covered the following:

**Comment 1:** Several "typographical" errors were noted including an error under factor "A" of the "Summary of Factors Affecting the Species." The proposed rule said that in a Service-funded status survey voles were found in 12 places; this should read "2 places."

**Service response:** These were printing errors and did not occur in the copy of the proposed rule that was sent to the Federal Register.

**Comment 2:** Additional potential predators on the vole include the zone-tailed, Cooper's, and Sharp-shinned hawks, and the goshawk.

**Service response:** These species have been added to the list under factor "C" in the "Summary of Factors Affecting the Species."

**Comment 3:** Under available conservation measures, it should be mentioned that BLM is pursuing water rights acquisition to benefit public lands resources and uses, including the needs of the vole.

**Service response:** The final rule has been modified accordingly.

**Comment 4:** An additional vole site, based on sign only, has been located in the Hualapai Mountains by BLM biologists.

**Service response:** The Service is aware of this location, and this information has been added to the final rule. However, because of the low numbers and small amount of habitat, this information does not change the status of the Hualapai vole.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all available information, the Service has determined that the Hualapai vole (*Microtus mexicanus hualpaiensis*) should be classified as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR



Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Hualapai vole (*Microtus mexicanus hualpaiensis*) are as follows (information taken from Spicer *et al.* 1985, unless otherwise noted):

**A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range**

The Hualapai vole is extremely rare and has among the most restricted habitats of any North American mammal. From 1923 to the present, only 15 specimens are known to have been captured in the Hualapai Mountains. These individuals were taken at 7 localities, and sign alone was found at 3 other sites in that area. In addition, as noted above, 2 other specimens were collected in the Prospect Valley in 1913, but continued existence of any represented population is doubtful, and 4 other specimens were taken in the Music Mountains in 1981, but their identity is uncertain. The recent Service-funded status survey investigated 59 potential sites, but found voles in only 2 places and sign alone in 1 other place. These last 3 sites were characterized by isolated grass-forb vegetation in the immediate vicinity of open water or seeps, surrounded by drier, unsuitable habitat. Each site was only 3-5 yards (3-5 meters) across and 80-450 yards (75-400 meters) long. The total size of suitable vole habitat was estimated at about three-quarters of an acre (0.31 hectare), and this habitat was thought capable of supporting a minimum of 44 voles. Since the Service-funded survey, BLM biologists have located an additional site in the Hualapai Mountains. No voles were found there, but sign occurred intermittently in a drainage measuring about 1,968 feet (600 meters) long and 20 feet (6 meters) wide.

Even the few spots from which the Hualapai vole has been recorded are apparently not consistently or currently occupied. Past incompatible land management practices and periods of drought have combined to cause the deterioration of most of the habitat of the vole. The present main threat to the habitat appears to be the elimination of the ground cover of grasses, sedges, rushes, and forbs around open water and seeps, primarily by grazing and heavy recreational use, including camping and off-road vehicle activity.

Except for the Mohave County Parks land, the sites where the vole sign has been found are managed as part of

larger grazing allotments by BLM. Although the Hualapai Mountain Park is not actually part of a BLM grazing allotment, it is adjacent to grazing allotments and is unfenced along part of this boundary. Therefore, cattle from the adjacent lands do heavily graze in the park. Creekbed habitats with their succulent green vegetation are more attractive to livestock than are the drier areas surrounding them. Livestock concentrates in these moist areas, greatly reducing, if not eliminating, ground cover by both grazing and trampling. In addition to causing the loss of food and cover, the reduction of green vegetation could have a negative effect on reproductive potential of the Hualapai vole by reducing breeding stimuli.

Human recreational users are also attracted to spring areas. Due to an increased demand for outdoor recreation, additional areas of the Hualapai Mountain Park will likely be opened up for public use. The Mohave County Parks Department is also exploring the possibility of developing a three-acre lake within historic vole habitat.

In addition, the soil on the slopes of the Hualapai Mountains is mostly shallow and subject to erosion. Locally, the erosional tendencies are exacerbated by many years of heavy land use (historic road construction, heavy long-term livestock overuse, and localized, concentrated recreation) that have contributed to reduced ground cover and concentration of runoff. Water development that pipes all available water to a downstream trough may also lead to the elimination of ground cover in stream bottoms.

**B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes**

The Hualapai vole is neither sought for economic or sporting purposes nor persecuted as a pest or collected as a pet. However, because of the low number of animals, the easily accessible population areas, and the developing curiosity regarding the Hualapai vole, vandalism and taking could pose a threat. In addition, it is possible that an intensive snap trapping effort could eliminate a particular population.

**C. Disease or Predation**

Nothing is known about disease or predation in Hualapai vole populations. However, species of *Microtus* are usually a fundamental part of the base of the food pyramid, and many potential predators occur in the Hualapais. These predators include the coyote, gray fox, ringtail, raccoon, bobcat, striped skunk,

hog-nosed skunk, red-tailed hawk, zone-tailed hawk, Cooper's hawk, sharp-shinned hawk, goshawk, great horned owl, screech owl, spotted owl, gopher snake, Arizona black rattlesnake, black-tailed rattlesnake, striped whipsnake, and Sonoran Mountain kingsnake. In addition, predation by domestic cats could be a potential threat in the northeastern part of Hualapai Mountain Park, where a residential area is expanding in and adjacent to potential vole habitat.

**D. The Inadequacy of Existing Regulatory Mechanisms**

The Hualapai vole is included in Group 2 of "Threatened Native Wildlife in Arizona." Group 2 contains species or subspecies whose continued presence in Arizona is in jeopardy because of substantial population decline (Arizona Game and Fish Commission 1982). However, this listing carries no enforcement authority and provides no protection for habitat. There are no statutes specifically authorizing State conservation of threatened or endangered species, but the State can control scientific and educational collecting, and can buy and manage land.

**E. Other Natural or Manmade Factors Affecting its Continued Existence**

The areas of habitat supporting the Hualapai vole are relatively small and isolated. This mammal is thus fragmented into tiny populations that are subject to inbreeding and reduced genetic viability. The populations may therefore be particularly vulnerable to artificial or natural disturbances in their habitat.

Drought is an additional threat to the Hualapai vole's habitat. The impacts of drought can include reduced water flow from springs and seeps, reduced new vegetative growth, and decreased ground cover, all of which can cause increased exposure of the soil and erosion. While drought is a natural phenomenon, the effects of drought are intensified by human-caused habitat degradation.

The Service has carefully assessed the best available scientific information regarding the past, present, and probable future threats to the species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Hualapai vole as endangered. A decision to take no action would exclude the Hualapai vole from protection provided by the Endangered Species Act. A decision to propose only threatened status would not adequately reflect the very small



population and habitat sizes of this vole, its history of rarity and vulnerability, and the multiplicity of problems that confront it. For the seasons given below, critical habitat is not being designated.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, critical habitat be designated at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for the Hualapai vole at this time. Because of the rarity of the animal, its easily accessible populations, and the developing curiosity regarding it, publication of critical habitat descriptions and maps could be detrimental. No benefit can be identified that would outweigh the threats of vandalism or taking that might result from such publication. BLM is aware of the locations of the vole's populations, has acknowledged the threats to these populations, and already is actively considering them during planning. Should the Service receive additional information that would warrant reconsideration of this decision, critical habitat could be proposed in the future.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. Some actions may be initiated prior to listing, circumstances permitting. The protection required of Federal agencies and the prohibitions against taking and harm are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued

existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species, the responsible Federal agency must enter into formal consultation with the Service.

The Hualapai vole is known to occur primarily on BLM lands. BLM is the surface managing agency and would be subject to section 7 consultation if any of its actions might affect the vole. Such actions include maintenance of existing grazing leases and water rights and developments. BLM would be required to consider protection of the vole's habitat while administering such leases, and to maintain habitat without violating individual water rights that may exist. As noted above under "Critical Habitat," BLM is aware of the situation and is giving consideration to the welfare of the vole. BLM is pursuing water rights acquisition to benefit public lands resources and uses, including the need of the vole. In addition, BLM plans to fence (with Service funding) around an important vole habitat area to exclude cattle grazing. Other measures to protect habitat from grazing and excessive recreational use might also facilitate recovery of the Hualapai vole, as might further investigations of population status and biological needs.

Section 9 of the Act, and implementing regulations found at 50 CFR 17.21, set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. In some instances, permits may be issued during a specified period of time to relieve undue economic hardship that would be suffered if such relief were not otherwise available.

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

#### References Cited

- Arizona Game and Fish Commission. 1982. Threatened native wildlife in Arizona. Arizona Game and Fish Department publication, 12 pp.
- Goldman, E.A. 1938. Three new races of *Microtus mexicanus*. *Journal of Mammalogy*, 19:493.
- Hall, E.R. 1981. The mammals of North America. John Wiley and Sons, New York, 2 vols.
- Hoffmeister, D.F. 1986. Mammals of Arizona. The University of Arizona Press, Tucson, Arizona.
- Spicer, R.B., R.L. Glinski, and J.C. deVos, Jr. 1985. Status of the Hualapai vole (*Microtus mexicanus hualpaiensis* Goldman). Report to U.S. Fish and Wildlife Service, Office of Endangered Species, Albuquerque, New Mexico, 50 pp.

#### Author

The primary author of this final rule is Alisa M. Shull, Endangered Species Biologist, U.S. Fish and Wildlife Service, Albuquerque, New Mexico 87103 (505/766-3972 or FTS 474-3972).

#### List of Subjects in 50 CFR part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

#### Regulation Promulgation

#### [PART 17—AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93-205, 87 Stat. 884; Pub. L. 94-359, 90 Stat. 911; Pub. L. 95-632, 92 Stat. 3751; Pub. L. 96-159, 93 Stat. 1225; Pub. L. 97-304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*); Pub. L. 99-625, 100 Stat. 3500 (1986), unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under "Mammals," to the List of Endangered and Threatened Wildlife:

#### § 17.11 Endangered and threatened wildlife.

\* \* \* \* \*

(h) \* \* \*



Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
MAMMALS							
Vole, Hualapai	<i>Microtus mexicanus hualpaiensis</i>	U.S.A. (AZ)	Entire	E	292	NA	NA

Dated: September 22, 1987.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 87-22693 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-55-M

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Parts 204 and 604

[Docket No. 60593-6093]

#### OMB Control Numbers for Information Collection Requirements

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule; technical amendment.

**SUMMARY:** NOAA issues this housekeeping amendment which consolidates OMB control numbers for NOAA information collection requirements inadvertently codified at two locations. This should assist the reader, as well as reduce costs to the Federal government.

**EFFECTIVE DATE:** September 29, 1987.

**FOR FURTHER INFORMATION CONTACT:** Richard Schaefer (Director, Fisheries Conservation and Management Office), 202-673-5263.

**SUPPLEMENTARY INFORMATION:** OMB control numbers for NOAA information collection requirements were inadvertently codified at both 50 CFR Parts 202 and 604. By this rule, Part 604 is removed and Part 204 is revised to add to the table of OMB control numbers those now appearing at Part 604.

This action is taken in compliance with E.O. 12291 and does not conflict with other related laws since neither textual nor number changes are being made.

#### List of Subjects in 50 CFR Parts 204 and 604

Reporting and recordkeeping requirements.

Dated: September 29, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

For the reasons set out in the preamble, the Administrator, under his authority at Department Organization Order 25-5A, dated August 26, 1985, amends 50 CFR Chapters II and VI as follows:

#### PART 204—OMB CONTROL NUMBERS FOR NOAA INFORMATION COLLECTION REQUIREMENTS

1. The authority citation for Part 204 continues to read as follows:

Authority: Paperwork Reduction Act of 1980, 44 U.S.C. 3501-3520 (1982).

##### § 204.1 [Amended]

2. Section 204.1(b) is amended by adding sequentially the entries from the table in § 604.1(b).

#### PART 604—[REMOVED AND RESERVED]

3. Part 604 is removed and reserved.

[FR Doc. 87-22764 Filed 9-29-87; 1:33 pm]

BILLING CODE 3510-22-M

#### 50 CFR Part 254

[Docket No. 70900-7200]

#### Jellyfish Control

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.

**ACTION:** Final rule.

**SUMMARY:** NOAA removes a part from the Code of Federal Regulations (CFR) pertaining to Federal funding of State projects to control jellyfish. Federal authority of these projects has not been and will not likely be used. The intended effect is to remove extraneous text from the CFR and effect a cost savings for the Agency.

**EFFECTIVE DATE:** September 29, 1987.

**FOR FURTHER INFORMATION CONTACT:** Donna D. Turgeon, 202-673-5313.

**SUPPLEMENTARY INFORMATION:** This final rule removes Part 254 from the CFR which pertains to Federal cooperative grant program to States under the

#### Jellyfish Control or Elimination Act of 1966.

Although the Act, which is implemented by Part 254, has not been repealed, no funds have been allocated since 1977 to assist States for its purposes. It is unlikely that funds will be appropriated in the future. If funds should become available, the regulations would require substantial revision; a new rule would be proposed at that time. Part 254 is obsolete. Removing it from the CFR will save annual publication costs and will have no effect on any person or entity.

#### Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is a matter pertaining to grants, benefits and contracts and is therefore exempted from the requirements of the Administrative Procedures Act (APA) to be published in proposed form for public comment with delayed effective date under 5 U.S.C. 553(a)(2).

Notice and comment for this rule are not required by the APA or any other law. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act (5 U.S.C. 603).

This rule is not a major rule under Executive Order 12291 requiring a regulatory impact analysis, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This rule does not contain a collection of information requirement for purposes of the Paperwork Reduction Act (44 U.S.C. 3501).

#### List of Subjects in 50 CFR Part 254

Fish, Grant programs—natural resources.



Dated: September 29, 1987.

Bill Powell,  
Executive Director,  
National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Chapter II is amended as follows:

#### PART 254—[REMOVED AND RESERVED]

50 CFR Part 254 is removed and reserved.

[FR Doc. 87-22763 Filed 9-29-87; 1:21 pm]

BILLING CODE 3510-22-M

#### 50 CFR Parts 638, 641, and 654

[Docket No. 70994-7194]

#### Coral and Coral Reefs of the Gulf of Mexico and the South Atlantic, Reef Fish Fishery of the Gulf of Mexico, and Stone Crab Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Final rule; technical amendments.

**SUMMARY:** NOAA issues technical amendments to make modifications, correct typographical errors to scientific names, clarify text, and correct coordinates in Parts 638, 641, and 654. The intended effect is to assure clarity and consistency in the regulations.

**EFFECTIVE DATE:** September 28, 1987.

**FOR FURTHER INFORMATION CONTACT:** W. Perry Allen, Southeast Region, 813-826-3722.

**SUPPLEMENTARY INFORMATION:** Regulations implementing 50 CFR Parts 638, 641, and 654 contain errors that are longstanding. These technical amendments are being promulgated to correct these errors in time to be included in the next edition of the Code of Federal Regulations. They do not introduce new information or deviate from current agency procedure.

#### Classification

The Assistant Administrator for Fisheries finds that because the changes made by this technical amendment are only minor corrections in which the public is not particularly interested, it is unnecessary to seek prior public comment under 5 U.S.C. 553(b)(B) and there is good cause not to delay the effective date of this rule for 30 days under 5 U.S.C. 553(d). As no notice of proposed rulemaking is required this rule is also exempt from the provisions of the Regulatory Flexibility Act (5 U.S.C. 603) and no Regulatory Flexibility Analysis has been prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (44 U.S.C. 3501).

This rule merely corrects minor errors; therefore it is not a major rule under Executive Order 12291 and its issuance is in compliance with the order. Because this rule will have no substantive effect on any person or fishing practice, there will be no change in the impacts analyzed in the regulatory impact reviews prepared for the implementing regulations.

This action is taken under the authority of 50 CFR Parts 638, 641, and 654.

#### List of Subjects in 50 CFR Parts 638, 641, and 654

Fisheries.

Dated: September 28, 1987.

Bill Powell,  
Executive Director, National Marine  
Fisheries Service.

For the reasons set forth above, 50 CFR Parts 638, 641, and 654 are amended as follows:

1. The authority citation for Parts 638, 641, and 654 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

#### § 638.2 [Amended]

2. In § 638.2, in the definition for *Center Director*, the telephone number is revised to read "305-361-4200"; in the definition for *U.S. fish processors*, the word "processors" is made singular, the word "a" is added after the word "means", the word "facilities" is made singular and in line 3 the word "a" is added after "and", and "vessels" is made singular; and in the definition for *U.S.-harvested fish*, the word "a" is added between "by" and "vessels", and "vessels" is made singular.

#### § 638.4 [Amended]

3. In § 638.4, in paragraph (a)(2), the phrase "State of" is removed before "Florida"; and in paragraph (h), the first word, "All" is revised to read "A"; "persons" is made singular; the word "a" is added between "holding" and "permits" which is made singular; the word "an" is added before "annual", the word "reports" is made singular, and the word "their" is revised to read "his or her".

#### § 638.5 [Amended]

4. In § 638.5, introductory text, the dash is removed.

#### § 638.6 [Amended]

5. In § 638.6(b)(2), after the word "blocks", the phrase "may be dropped" is added.

#### § 638.22 [Amended]

6. In § 638.22, in paragraph (a)(2), the phrase "in the area less than 50 fathoms (300 feet) in depth" is removed; and in paragraph (c), the sentence beginning "The area . . ." is designated as "(1)", the phrase, "The following restrictions apply" is removed, the word "within" is capitalized and the sentence is designated as "(2)", and the colon is removed after "HAPC".

#### § 641.2 [Amended]

7. In § 641.2, in the definition for *Person*, the word "corporate" is revised to read "corporation"; in the definition for *Reef fish*, in paragraph (a), the species name for Gulf red snapper is revised to read "*Lutjanus campechanus*", the species name for Yellowmouth grouper is revised to read "*Mycteroperca interstitialis*", and the species name for Yellowfin grouper is revised to read "*Mycteroperca venenosa*", and in paragraph (b), the family name for Tilefishes is revised to read "*Malacanthidae Family*", the species name for Tilefish is revised to read "*Caulolatilus spp.*", and the species name for Hogfish is revised to read "*Lachnolaimus maximus*". In § 641.8 (d)(1), in footnote<sup>1</sup>, the word "Period" is added before "(.)" and in footnote<sup>2</sup>, the word "Dash" is added before "(-)".

#### § 654.2 [Amended]

8. In § 654.2 introductory text, the word "shall" is removed, an "s" is added to the word "meaning", and the final sentence (in parentheses) is removed; in the definition for *Center Director*, the telephone number is revised to read "305-361-4200"; in the definition for *Committee*, the words "staff of" are removed before "Florida"; in the definition for *Fishing*, the words "scientific research" are added between "a" and "vessel"; in the definition for *FMP*, the word "the" is added before "Stone Crab Fishery", and "of the Gulf of Mexico" is added after "Stone Crab Fishery"; in the definition for *Owner*, paragraph (3), the word "designation" is revised to read "destination"; in the definition for *State*, the words "the State of" are removed before "Florida".

#### § 654.3 [Amended]

9. In § 654.3(b), the words "the State of" are removed before "Florida" in the fourth and eighth lines.

#### § 654.4 [Amended]

10. In § 654.4(b)(2), the comma is removed after the word "documentation", and the word "or" is added between "documentation" and



"registration" and removed before "number".

§ 654.6 [Amended]

11. In § 654.6 (b), "this Act" is revised to read "the Magnuson Act".

§ 654.20 [Amended]

12. In § 654.20(c), the word "this" is added before "section".

§ 654.22 [Amended]

13. In § 654.22, in paragraph (a)(2), the word "in" in the fifth line is revised to read "is" and the words "the State of" are removed before "Florida"; and in paragraph (b), the phrase "of this section" is added between "(a)" and "will".

§ 654.23 [Amended]

14. In § 654.23(a) the word "to" is removed before "the" in the eleventh line and the words "the State of" are removed before "Florida".

[FR Doc. 87-22636 Filed 9-28-87; 2:40 am]

BILLING CODE 3510-22-M



# Proposed Rules

Federal Register

Vol. 52, No. 190

Thursday, October 1, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF JUSTICE

### Immigration and Naturalization Service

[INS Number: 1025-87]

#### 8 CFR Part 214

#### Nonimmigrant Classes; Special Requirements for Admission, Extension and Maintenance of Status

**AGENCY:** Immigration and Naturalization Service, Justice.

**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** This notice announces the intent of the Immigration and Naturalization Service ("the Service") to set forth, in regulatory form, the special requirements for admission, extension and maintenance of status of nonimmigrant alien visitors for business and visitors for pleasure. Much of the Service's written policy relating to this subject is now contained in the Service's Operations Instructions at O.I. 214.2(b). Because it is more appropriate for interpretations and rules to be set forth in regulatory form, this information will become part of 8 CFR 214. In addition, the proposed rulemaking will clarify the criteria for according B-1 classification to members of certain occupations (such as participants in religious programs and members of foreign film crews). By issuing this advance notice, the Service is providing an opportunity to the public to submit comments and make suggestions at an earlier stage of the process. This will result in a proposed rule which is more comprehensive in its scope and more understandable to the public.

**DATES:** Comments on this notice of intent must be received on or before November 16, 1987.

**ADDRESSES:** Please submit written comments, in triplicate, to the Director, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street NW., Room 2011, Washington, DC 20536.

**FOR FURTHER INFORMATION CONTACT:** Micheal L. Shaul, Senior Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Room 7122, Washington, DC 20536, Telephone: (202) 633-3946.

**SUPPLEMENTARY INFORMATION:** Under the Immigration and Nationality Act ("the Act"), there are 15 major classifications of nonimmigrants under which an alien may be temporarily admitted to the United States, one of which deals with temporary visitors under section 101(a)(15)(B) of the Act (8 U.S.C. 1101(a)(15)(B)). This classification is divided by regulation at 8 CFR 214.2(b) into visitors for business ("B-1") and visitors for pleasure ("B-2"). Service policy instructions delineating the conditions under which aliens may qualify for the B-1 classification are listed in the Operations Instructions (O.I.s) of the Service at O.I. 214.2(b). Relating Department of State policy instructions are contained in notes to 22 CFR 41.25 in the Foreign Affairs Manual (FAM). Although the O.I.s and the FAM are generally in accord, there are few discrepancies which should be addressed. Because of the need of the public to have greater access to these instructions and rules, it is appropriate that they be contained in the regulations instead of O.I.s and the FAM. Therefore, the Service intends to move applicable portions of O.I. 214.2(b) to 8 CFR 214 and incorporate relevant items from the FAM.

At the same time, the Service seeks public comments on possible modifications of the instructions contained in the existing O.I.s, including those discussed below, which could be included in the proposed regulations. There are five areas in particular that have caused recurrent problems:

1. The Service has received many requests that B-1 classification be extended to certain members of religious denominations and/or recognized voluntary service programs, especially where the alien has already been employed by an overseas affiliates of the same denomination or service program. Such B-1 nonimmigrants could be admitted for longer periods and under different control procedures than those for other B-1 nonimmigrants.

2. The Service has also received a number of requests for B-1 classification for key personnel of foreign film crews coming to film commercials for foreign

use. At the present time, the O.I. is being interpreted to exclude from B-1 classification most aliens connected with the entertainment industry, including those coming to film television commercials destined strictly for foreign consumption. The Service has received representations that this exclusion is too broad and is having an adverse impact on the United States economy and labor market. It is argued that allowing key personnel to enter the United States as B-1's under such circumstances would:

(a) Aid our industries related to tourism and film production (hotels, restaurants, equipment rental, motion picture supplies, etc.),

(b) Employ United States workers in support positions, and

(c) Encourage tourism in the United States by exposing foreign television viewers to our scenic attractions.

The Service is soliciting comments as to the criteria and definitions relating to the basis for denying or granting B-1 status to such key personnel. The Service is also seeking information as to the positive or negative impacts on the U.S. economy and labor market envisaged by the proponents or opponents of such a modification.

3. Another possible modification of the current language would allow an entertainer to be classified as a B-1 nonimmigrant if the alien either appears before a nonpaying audience or is an amateur entertainer appearing at an event organized by a nonprofit organization. In the latter case the alien could receive reimbursement for expenses from either the nonprofit organization or from the alien's government, but no other remuneration.

4. The standards may also be modified to allow warranty work to be performed at any time following the purchase of commercial or industrial equipment or machinery, as long as the relevant warranty agreement was completed at or prior to the time of purchase.

5. The current reference in the O.I.s to persons engaged in activities on the outer continent shelf under the jurisdiction of the Coast Guard would be deleted, since the Coast Guard regulations at 33 CFR 141.15 require that persons engaged in such activities be citizens or lawful permanent residents of the United States, or aliens admitted as "H-2" nonimmigrants.



The Service is seeking comments from interested parties as to the standards to be set for classification under each of the areas described in the O.I.s or the FAM. For the convenience of the public, the parts of O.I. 214.2(b) describing aliens eligible for classification as B-1 nonimmigrants are printed below, followed by excerpts from the FAM listing groups not discussed in the O.I.

#### Operation Instruction 214.2(b)

(b) *Visitors.* If found admissible, a B-2 shall be admitted for 6 months. The district director may delegate individual review of the minimum admission period no lower than a supervisory inspector. Referral of individual cases to the supervisor may occur when it is evident that the alien is admissible, but does not have sufficient resources available to maintain a 6-month visit. The Service does not require that an applicant for admission have with him funds to maintain a 6-month stay, but the applicant must demonstrate that he/she has access to sufficient resources. A B-1 shall be admitted for a period of time which is fair and reasonable for completion of the purpose of the trip. Any decision to reduce a B-1's admission from the time requested shall be authorized by a supervisor.

An alien who is coming temporarily to the United States to fill a position of a permanent nature is generally not admissible as a B or H-2 nonimmigrant. However, personnel of foreign airlines engaged in international transportation of passengers and freight who seek to enter the United States for employment with the airline in an executive, supervisory or highly technical capacity may be admitted as B-1 nonimmigrants, unless a treaty of commerce and navigation is in effect between the United States and the country of the applicant's nationality, in which case the alien should be documented as E-1 if he is otherwise qualified. Such B-1 airline personnel must meet the criteria established for employees of treaty traders as described in 22 CFR 41.40(a)(2). The notes to that regulation in Volume 9—Visas, Foreign Affairs Manual, contain information concerning the various treaties of trade entered into by the United States, and important information concerning certain limitations of treaty provisions. These notes must be consulted in considering matters involving this category of B-1 nonimmigrants.

Personal and domestic servants may be classified as B-1 nonimmigrants if they are accompanying or follows to join:

(1) United States citizen employers who can establish (a) that they are

subject of frequent international transfers lasting two years or more as a condition of their employment, and that they are returning to the United States from such an assignment, (b) their current assignment in the United States will not be for over 4 years, (c) the personal or domestic servant has been employed by them abroad for at least six months prior to admission into the United States, (d) the servant will reside in their household and will be provided a private room and board, without cost to the servant, (e) the servant will work only for them; and (f) both the employer and employee have signed a contract which guarantees that the servant will receive at least the prevailing wage for domestics in the area of employment, that all other benefits normally given to U.S. workers in the area of employment will be granted to the servant; that round trip airfare will be provided to the servant; that the servant will not be required to give more than two weeks notice of intent to leave the employment; that the employer will give at least two weeks notice of intent to terminate the employment. Evidence to establish qualifications under this subparagraph may include personnel records and statements from the citizen's employer, and must include a signed and dated copy of the contract between the employer and servant; or,

(2) Nonimmigrant employers who seek admission to, or are already in the United States in B, E, F, H, I, J or L nonimmigrant status, provided the employee can show he has a residence abroad he does not intend to abandon (notwithstanding the employer himself may be in a nonimmigrant status which does not require such a showing), and further provided the employee has been employed abroad by the employer as a personal or household domestic servant for at least one year prior to the date of the employer's admission to the United States, or that the employer-employee relationship has existed prior to the time of application and the employer can demonstrate that he has regularly employed (either year-round or seasonally) a personal or domestic servant over a period of several years immediately preceding the time of application, and the employee can demonstrate at least one year's experience as a personal or domestic servant.

Persons engaged in activities on the *outer continental shelf* are under the jurisdiction of the United States Coast Guard. Any person inquiring about his or her right to engage in employment on the *outer continental shelf* should be

referred to the Coast Guard. Nonimmigrants destined to the *outer continental shelf* normally will be classified B-1, and consular officers will annotate such visas "OCS" (see 235.1(m)(2)).

Each of the following may also be classified as a B-1 nonimmigrant if he/she is to receive no salary or other remuneration from a United States source (other than an expense allowance or other reimbursement for expense incidental to the temporary stay):

(1) An alien, otherwise classifiable as an H-1 nonimmigrant, who is coming to perform temporary services in the United States other than as an entertainer; however, an entertainer who is classifiable H-1 may be classified B-1 if coming to participate in a cultural program sponsored by his/her government, will be performing before a nonpaying audience, and all expenses, including per diem, will be paid by his/her government. (See Foreign Affairs Manual, Vol 9 visas, Note 4.2 at 22 CFR 41.25).

(2) An alien entertainer, even though not of H-1 caliber, who is a resident or national of Canada or Mexico and is coming to the border area of the United States to participate in a long-established religious festival or ceremony, or in a long-established bi-national civic celebration.

(3) An alien, otherwise classifiable as an H-3 nonimmigrant who is already employed abroad and will continue to receive his/her salary from the foreign employer on whose behalf he/she is coming to undertake training in the United States.

(4) An alien, otherwise classifiable as an H-3 nonimmigrant, who is a student at a foreign medical school and is coming to take an "elective clerkship" (practical experience and instruction in the various disciplines of the practice of medicine under the supervision and direction of faculty physicians) at a United States medical school's hospital as an approved part of the foreign medical education.

(5) An alien coming to install, service, or repair commercial or industrial equipment or machinery purchased from a company outside the U.S. or to train U.S. workers to perform such service, provided: the contract of sale specifically requires the seller to perform such services or training, the alien possesses specialized knowledge essential to the seller's contractual obligation to provide services or training, the alien will receive no remuneration from a U.S. source, and



the trip is to take place within the first year following the purchase.

(6) An alien member of a religious denomination coming temporarily and solely to do missionary work in behalf of that denomination, if such work does not involve the selling of articles or the solicitation or acceptance of donations.

(7) An alien coming temporarily to participate in a voluntary service program conducted by a recognized religious body. The alien shall present to the examining officer a written statement issued by the appropriate religious organization. The statement must contain the following items of information:

(i) Identity of the volunteer including name, date and place of birth;

(ii) Name and address of initial destination in U.S.;

(iii) Name and address of project in U.S. to which assigned; and

(iv) Anticipated duration of assignment.

(8) An alien, who is coming temporarily to the United States to attend an executive seminar.

(9) An alien, who has been invited to participate in the training of Peace Corps Volunteers or who is coming to the United States under contract pursuant to sections 9 and 10(a)(4) of the Peace Corps Act (75 Stat. 612). Aliens admitted under this provision may be paid a salary for service performed in accordance with the Peace Corps Act.

(10) An alien, coming temporarily to perform service for his foreign employer as a jockey, sulkey driver, trainer or groom. The alien may not work in this country for any other foreign or United States employer.

(11) An alien, who is coming to the United States to seek an investment which would be qualifying for status as an E-2 investor, provided that the alien does not perform productive labor or actively participate in the management of the business prior to receiving a grant of E-2 status.

(12) An alien, who is coming to the United States to open or be employed in a new branch, subsidiary, or affiliate of the foreign employer, if the alien will become eligible for status as an L-1 upon securing the evidence required in 8 CFR 214.2(1) regarding proof of acquisition of physical premises.

(13) An alien athlete or team member who meets all of the following criteria:

"A" The player seeks to enter the U.S. as a member of a foreign based team in order to compete with another sports team.

"B" The foreign sports team and the foreign athlete have their principal place of business or activity in a foreign country.

"C" The income of the foreign based team and the salary of its players are principally accrued in a foreign country.

"D" The foreign based sports team is a member of an International Sports League or the sporting activities involved have an international dimension.

In all other instances, an alien classified as an H-2 nonimmigrant may not be classified as a B-1 nonimmigrant even if the salary is paid by a source outside the United States. A visa petition must be filed on behalf of such nonimmigrant alien accompanied by a certification from the Secretary of Labor or designated representative or by a notice that such certification cannot be made, to enable the Service to determine among other things whether any unemployed persons capable of performing the same services are available in this country.

#### Foreign Affairs Manual Notes to 22 CFR 41.25 (excerpts)

(a) Aliens coming to engage in commercial transactions which do not involve gainful employment in the United States (such as a diamond merchant from Amsterdam who takes orders in New York City for rough or cut diamonds available in the Netherlands or a representative of a computer manufacturer located in Japan who takes orders throughout the United States for computers manufactured abroad), to negotiate contracts, to consult with business associates, to litigate, to participate in scientific, educational, professional or business conventions, or conferences, or to undertake independent research.

(e) An alien invited to participate in any program to furnish technical information and assistance under section 635(f) of the Foreign Assistance Act of 1961 (75 Stat. 424).

(f) Ministers of religion who temporarily exchange pulpits with their American counterparts, who continue to be reimbursed by their own church and will draw no salary from the host church in the United States.

(g) A minister of religion desiring to proceed to the United States to engage in an evangelical tour who does not plan to take an appointment with any one church, and who will be supported by offerings contributed at each evangelical meeting.

(k) Professional athletes, such as golfers and race drivers, who receive no salary or payment other than prize money for their participation in a tournament or sporting event.

(m) Members of the crew of a private yacht which will be cruising in United States waters for more than twenty-nine

days who are able to establish that they have a residence abroad which they do not intend to abandon.

(o) An alien who is a member of the board of directors of a United States corporation and seeks to enter the United States to attend a meeting of the board or to perform other functions resulting from membership of the board.

(q) Coasting Officers.

(r) Participants in United Nations Institute for Training and Research (UNITAR) internship program who are not employees of foreign governments.

The Service requests that interested persons submit their views and relevant information as comments on this notice. These comments will help the Service to fashion a policy that will correctly interpret the Act and serve the public interest. This rule contains information collection requirements under the Paperwork Reduction Act which will be submitted to the Office of Management and Budget.

Dated: August 31, 1987.

Richard E. Norton,

Associate Commissioner, Examinations  
Immigration and Naturalization Service.

[FR Doc. 87-22728 Filed 9-30-87; 8:45 am]

BILLING CODE 4410-10-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 87-NM-109-AD]

#### Airworthiness Directives: Boeing Model 737 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This notice proposes to amend an existing airworthiness directive (AD), applicable to certain Boeing Model 737 series airplanes, which currently requires that the FAA-approved maintenance inspection program include inspections which will give no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Supplemental Structural Inspection Document (SSID) No. D6-37089. As a result of a structural reassessment of the aft pressure bulkhead, the document has been revised to include some additional SSIs. This proposal would require that operators of the candidate fleet airplanes include in their FAA-approved maintenance program, inspections



which will give no less than the required DTR's for the additional SSIs listed in Revision B. of the SSID.

**DATES:** Comments must be received no later than November 2, 1987.

**ADDRESSES:** Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-109-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

**FOR FURTHER INFORMATION CONTACT:** Mr. Owen E. Schrader, Airframe Branch, ANM-120S; telephone (206) 431-1923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

##### Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel (Attn: ANM-103), Attention: Airworthiness Rules Docket No. 87-NM-109-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

#### Discussion

On November 2, 1984, the FAA issued AD 84-21-06, Amendment 39-4933 (49 FR 42445; October 23, 1984), to require incorporation of a revision to the FAA-approved maintenance program for certain Boeing Model 737 series airplanes. The AD requires that Structural Significant Items (SSI) listed in Boeing Supplemental Structure Inspection Document (SSID) No. D6-37089, initial release, be inspected on candidate fleet airplanes so as to render at least a specified damage tolerance rating (DTR). The Boeing document includes instructions on how DTR's are determined. Since issuance of the AD, Boeing has reassessed the aft pressure bulkhead and has revised the document.

The FAA has reviewed and approved Revision B. to Boeing Document No. D6-37089, which includes additional SSIs. Since, by definition, failure of an SSI can lead to structural failure, it is necessary that the maintenance program of the airplanes in the candidate fleet include adequate inspections of the SSIs. Other changes included in Revisions A. and B. to Boeing Document No. D6-37089 are basically clarifying or corrective in nature.

Since this condition is likely to exist or develop on other airplanes of this same type design, an AD is proposed which would amend AD 84-21-06 to require that the FAA-approved maintenance program include the required DTR's for each SSI, in accordance with the revised Boeing document previously mentioned. The FAA proposes to incorporate by reference in this amendment Boeing Supplemental Structure Inspection Document (SSID) No. D6-37089, Revision B, dated February 18, 1987.

It is estimated that 27 operators have 92 airplanes of U.S. registry that would be affected by this AD, that it would take approximately 50 manhours per airplane to accomplish the required actions, and 100 manhours per operator to update its maintenance program. Estimating the average labor cost to be \$40 per manhour, the cost to amend the maintenance program would be \$108,000, and the cost to accomplish the inspections would be \$184,000. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be \$292,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is

further certified under the criteria of the Regulatory Flexibility Act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities because few, if any, Model 737 airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket.

#### List of Subjects in 14 CFR Part 39

Aviation Safety, Aircraft, Incorporation by reference.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) as follows:

#### PART 39—[AMENDED]

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89

#### § 39.13 [Amended]

2. By amending AD 84-21-06, Amendment 39-4933 (49 FR 42556; October 23, 1984), paragraph A. and paragraph E. to read as follows:

A. Within three months after the effective date of this Amendment, incorporate a revision into the FAA-approved maintenance inspection program which provides no less than the required damage tolerance rating (DTR) for each Structural Significant Item (SSI) listed in Boeing Document No. D6-37089, Revision B, dated February 18, 1987, or later FAA-approved revisions. The required DTR value for each SSI is listed in the document. The revision to the maintenance program shall include and be implemented in accordance with the procedures in Sections 5.0 and 6.0 of the SSID.

E. Operators who have acceptably incorporated Boeing Document No. D6-37089, Revision B, dated February 18, 1987, or later FAA-approved revisions, into their approved maintenance program are exempt from the provisions of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.



Issued in Seattle, Washington, on August 26, 1987.

Frederick M. Isaac,

Deputy Director, Northwest Mountain Region.

[FR Doc. 87-22720 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-13-M

#### 14 CFR Part 39

[Docket No. 87-CE-29-AD]

#### Airworthiness Directives; SIAI Marchetti S.p.A.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

**SUMMARY:** This Notice proposes to adopt a new Airworthiness Directive (AD), applicable to SIAI Marchetti S.p.A. Models F260, F260B, F260C, and F260D airplanes, which would require initial and recurrent visual or dye-penetrant inspection of the main wing spar root area and, if cracks are found, modification of the main wing spar. Cracks in the main wing spar have been found during inspection of over 38 airplanes. If this condition is left uncorrected, the structural integrity of the wing may be compromised, resulting in loss of the airplane. The inspection and modification will detect cracks and prevent crack growth from compromising the wing structural integrity.

**DATES:** Comments must be received on or before December 1, 1987.

**ADDRESSES:** SIAI Marchetti Mandatory Service Bulletin (S/B) No. 260-B50, dated November 12, 1986, applicable to this AD may be obtained from SIAI Marchetti S.p.A. via Indipendenza, 2, 21018 Sesto Calende, Varese, Italy. This information may be examined at the Rules Docket at the address below. Send comments on the proposal in duplicate to Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-28-AD, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

#### FOR FURTHER INFORMATION CONTACT:

Mr. John P. Dow, Sr., Aerospace Engineer, ACE-109, Aircraft Certification Division, 601 East 12th Street, Kansas City, Missouri 64106; Telephone (816) 374-6932; or Mr. Munro Dearing, Aerospace Engineer, AEU-100, Aircraft Certification Office, Europe, Africa, and Middle East Office, c/o

American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30.

#### SUPPLEMENTARY INFORMATION:

##### Comments Invited

Interested persons are invited to participate in the proposed rule by submitting such written data, views or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Director before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. Comments are specifically invited on the overall regulatory, economic, environmental and energy aspects of the proposed rule. All comments submitted will be available both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA public contact concerned with the substance of this proposal will be filed in the Rules Docket.

##### Availability of NPRMs

Any person may obtain in copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 87-CE-28-AD, Room 1558, 601 12th Street, Kansas City, Missouri 64106.

##### Discussion

Inspections of over 70 SIAI Marchetti S.p.A. F260 airplanes having between 1,500 to 5,500 hours time-in-service (TIS) revealed 38 cracks in the main wing spar web root lower side. These cracks originated in the corners of the spar web. If this condition remains uncorrected, structural integrity of the wing will be compromised. As a result, SIAI Marchetti S.p.A. has issued S/B No. 260-B50, dated November 12, 1986, which describes initial and recurring inspection and modification of the main spar web root. The Registro Aeronautico Italiano (RAI), which has responsibility and authority to maintain the continuing airworthiness of these airplanes in Italy, has classified this S/B and subsequent issuance of RAI AD 86-199/F260-32, dated December 22, 1986, and the actions recommended therein by the manufacturer as mandatory to assure the continued airworthiness of the affected airplanes. On airplanes operated under Italian registration, this action has the same effect as an AD on

airplanes certified for operation in the United States. The FAA relies upon the certification of RAI combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness conformity of products of this type design certificated for operation in the United States. The FAA has examined the available information related to the issuance of S/B No. 260-B50, dated November 12, 1986, and the mandatory classification of this S/B by the RAI. Based on the foregoing, the FAA believes that the condition addressed by SIAI Marchetti S.p.A. S/B No. 260-B50, dated November 12, 1986, is an unsafe condition that may exist on other products of this type design certificated for operation in the United States. Consequently, the proposed AD would require initial and repetitive visual or dye-penetrant inspection of the main wing spar web root and modification when cracks are detected.

The FAA has determined there are approximately 90 airplanes affected by the proposed AD. The cost of compliance with the proposed AD is estimated to be an annual cost for inspection of \$70 per airplane. The total annual fleet cost is estimated to be \$6,300 to the private sector.

The cost of compliance with the proposed AD is so small that the expense of compliance will not be a significant impact on small entities operating these airplanes.

Therefore, I certify that this action (1) is not a "major rule" under the provisions of Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) if promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action has been placed in the public docket. A copy of it may be obtained by contracting the Rules Docket at the location provided under the caption "ADDRESSES".

#### List of Subjects in 14 CFR Part 39

Air transportation, Aviation safety, Aircraft, Safety.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the FAR as follows:



**PART 39—[AMENDED]**

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.89.

**§ 39.13 [Amended]**

2. By adding the following new AD:

**Siai Marchetti S.p.A.:** Applies to all Model F260, F260B, F260C, and F260D (all airplanes whose data plate shows manufacture before 1986 serial numbers (S/N) 1 through S/N 735) airplanes certificated in any category.

**Compliance:** Required as indicated after the effective date of this AD, unless already accomplished.

To prevent failure of the main wing spar, accomplish the following:

(a) Unless modified as described in (b) below, perform visual or dye-penetrant inspection on the main spar web root as described in SIAI Marchetti S/B No. 260-B50, dated November 12, 1986, "Instructions—Inspection Steps 1-5."

(i) Initially within 500 hours time-in-service (TIS) of the effective date of this AD for airplanes (wings) with 1,000 to 3,000 hours TIS.

(ii) Initially within 100 hours TIS of the effective date of this AD for airplanes (wings) with over 3,000 hours TIS.

(iii) Recurring inspection at 500 hours TIS interval, or at each annual inspection thereafter.

(b) If cracks are found in the lower web of the main wing spar as described in SIAI Marchetti S/B No. 260-B50, dated November 12, 1986, prior to further flight, modify the wing structure as described in SIAI Marchetti S/B No. 260-B50, dated November 12, 1986, "Instructions—Modification Steps 1-14."

(c) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(d) An equivalent means of compliance with this AD may be used if approved by the Manager, Brussels Aircraft Certification Office, Europe, Africa, and Middle East Office, c/o American Embassy, B-1000 Brussels, Belgium; Telephone 513.38.30.

All person affected by this directive may obtain copies of the document(s) referred to herein upon request to SIAI Marchetti S.p.A., via Indipendenza, 2, 21018 Sesto Calende, Varese, Italy; or may examine the document(s) referred to herein at FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

Issued in Kansas City, Missouri, on September 17, 1987.

**Jerold M. Chavkin,**  
*Acting Director, Central Region.*

[FR Doc. 87-22718 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-13-M

**DEPARTMENT OF THE TREASURY****Customs Service****19 CFR Part 6****Designation of New Hanover County Airport, Wilmington, NC for private aircraft reporting**

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Proposed rule.

**SUMMARY:** This document announces a proposal to amend the Customs Regulations by adding New Hanover County Airport, Wilmington, North Carolina, to the list of designated airports at which private aircraft arriving in the U.S. from the southern portion of the Western Hemisphere via the U.S./Mexican border, or via the Atlantic, Pacific or Gulf of Mexico coasts, must land for Customs inspection. This proposal is made to help relieve congested air traffic over southern Florida; a condition which makes it difficult to effectively conduct Customs private aircraft enforcement program. Public comments are invited on the proposal for consideration before a final decision is reached on this matter.

**DATE:** Comments must be received on or before November 30, 1987.

**ADDRESS:** Comments (preferably in triplicate) should be submitted to and may be inspected at the Regulations Control Branch, Room 2324, Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** Glenn Ross, Office of Inspection and Control (202-566-5607).

**SUPPLEMENTARY INFORMATION:****Background**

As part of Customs efforts to combat the problem of drug smuggling by air, in 1975 the Customs Regulations were amended to add a new § 6.14 (19 CFR 6.14), that provides in part that private aircraft arriving in the U.S. via the U.S./Mexican border must provide a notice of intended arrival with Customs (T.D. 75-201; 40 FR 33203). The section further provides that these private aircraft must land at any one of the designated airports near the U.S./Mexican border. The purpose of this regulation was to provide Customs with increased enforcement efficiency by providing tight control over air traffic arriving from the direction of countries that are major sources of illegal drugs destined for the U.S.

In our diligence to fight the national epidemic of illegal drugs, Customs has

amended § 6.14, Customs Regulations, several times since 1975. Amendments have included extending coverage to private aircraft arriving via the Pacific, Gulf of Mexico, or Atlantic coasts (T.D. 83-192; 48 FR 41381); expanding coverage by modifying the definition of private aircraft (T.D. 84-236; 49 FR 46885); extending the coverage to include some flights arriving from Puerto Rico and all flights arriving from the U.S. Virgin Islands, increasing from 15 minutes to one hour the minimum time required for notice to be given prior to penetrating U.S. air space, and requiring aircraft seeking exemption from landing requirements to be equipped with functioning transponders (T.D. 86-72; 51 FR 11004); and removing San Diego International Airport (Lindbergh Field) from the list of designated airports in § 6.14 because Lindbergh Field's distance from the U.S./Mexican border was permitting smugglers to operate in the area (T.D. 86-146; 51 FR 27836).

Most recently, Customs amended § 6.14(f) concerning the overflight exemption program for private aircraft. If exempted, private aircraft arriving in the U.S. from foreign countries in the Western Hemisphere south of the U.S. may overfly a Customs designated airport along the southern U.S. border and proceed to another, typically more interior, airport where Customs inspectional services are available. The amendments allowed for continuing the overflight program but with more stringent application procedures, and new restrictions on the actual conduct of overflights such as equipment necessary on the aircraft and minimum flying altitudes. These actions were taken to facilitate radar tracking of aircraft using overflight exemptions and thereby enhance narcotics enforcement efforts (T.D. 87-42; 52 FR 10047).

Customs is now proposing to amend § 6.14(g), which lists designated airports at which subject aircraft must land for Customs inspection, by adding New Hanover County Airport, Wilmington, North Carolina, to that list. The congested air traffic presently experienced over southern Florida is making it difficult to effectively monitor the arrival of private aircraft using that airspace. If aircraft needing to land at a designated airport could fly to New Hanover it would lessen the congestion now plaguing more southern designated airports. There is a direct trackable Federal Aviation Administration airway from the Caribbean into New Hanover which should make it a popular destination of pilots, as well as easing the burden on Customs of tracking arrivals from a known drug source area.



This proposed designation is a continuation of Customs recent efforts to improve our private aircraft enforcement program.

#### Comments

Before making a determination on this matter, consideration will be given to any written comments timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. to 4:30 p.m. at the Regulations Control Branch, Room 2324, Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

#### Executive Order 12291

Because this proposal relates to the organization of Customs it is not a regulation or rule subject to E.O. 12291.

#### Regulatory Flexibility Act

It is certified that the provisions of the Regulatory Flexibility Act ("Act") relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604), are not applicable to this proposal because it will not have a significant economic impact on a substantial number of small entities. Customs routinely makes adjustments to its field organization to accommodate the volume of Customs related activity throughout the country. Although the proposal may have a limited effect upon some small entities in the area affected, it is not expected to be significant because adjusting the Customs field organization in other areas has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Act. Nor is it expected to impose, or otherwise cause a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

#### List of Subjects in 19 CFR Part 6

Customs duties and inspection, Imports, Air carriers, Aircraft, Airports.

#### Proposed Amendment

It is proposed to amend Part 6, Customs Regulations (19 CFR Part 6), as set forth below.

#### PART 6—AIR COMMERCE REGULATIONS

1. The authority citation for Part 6 would continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (Gen. Hdnote. 11), 1624; 49 U.S.C. 1474, 1509.

#### § 6.14 [Amended]

2. It is proposed to amend § 6.14(g) by inserting, in appropriate alphabetical order, "Wilmington, NC," in the column headed "Location", and on the same line, "New Hanover County Airport" in the column headed "Name".

#### Drafting Information

The principal author of this document was John Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,

*Acting Commissioner of Customs.*

Approved: September 17, 1987.

John P. Simpson,

*Acting Assistant Secretary of the Treasury.*

[FR Doc. 87-22659 Filed 9-30-87; 8:45 am]

BILLING CODE 4820-02-M

#### 19 CFR Part 177

#### Tariff Classification of Wire Rope With Becket Attachments

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Proposed interpretive rule; Solicitation of public comments.

**SUMMARY:** Customs is reviewing its position regarding the tariff classification of certain imported wire rope with end attachments. The product in question is wire rope from one to five inches in diameter either in material lengths or in specific cut lengths, sometimes in excess of 500 feet. The wire rope has end preparations, called becketts, on one or both ends. The becketts are used to facilitate installation of wire rope into heavy machinery. Such products are now classified under the tariff provision for wire rope fitted with fittings or made up into articles. Customs is now of the opinion that the becketts are not "fittings" as that word is used in the Tariff Schedules, nor do they "fit" the rope, and the existence of becketts on one or both ends of wire rope does not dedicate that rope to a use or identify it as dedicated to a particular use.

It is proposed to classify the product under the Tariff Schedule item number for wire rope not fitted with fittings and not made up into articles. If reclassified, the wire rope would be subject to a lower rate of duty. However, it would also become subject to Voluntary Restraint Agreements on steel that the U.S. has with a number of countries.

This document invites comments for consideration before any final determination is made.

**DATE:** Comments (preferably in triplicate) must be received on or before November 30, 1987.

**ADDRESSES:** Comments should be submitted to and may be inspected at the Regulations Control Branch, U.S. Customs Service, Room 2324, 1301 Constitution Avenue NW., Washington, DC 20229.

**FOR FURTHER INFORMATION CONTACT:** James A. Seal, Classification and Value Division (202-566-8181).

#### SUPPLEMENTARY INFORMATION:

##### Background

Customs is reviewing its position regarding the tariff classification of certain imported wire rope from one to five inches in diameter either in material lengths or in specific cut lengths, sometimes in excess of 500 feet. The wire rope has end preparations, called becketts, on one or both ends. Becketts come in several configurations and are used to allow another rope to be attached to the wire rope so the wire rope may be installed in a piece of heavy machinery. The current tariff classification for such wire rope is under the tariff provision for "ropes \* \* \* of wire \* \* \* fitted with fittings, or made up into articles", in item 642.20, Tariff Schedules of the United States (19 U.S.C. 1202; TSUS). That classification carries a column 1 rate of duty of 5.7% ad valorem, and is not subject to any Voluntary Restraint Agreement (VRA). VRA's are steel arrangements negotiated between the U.S. Trade Representative on behalf of the U.S. and other countries, which dictate that basic steel products from these other countries cannot be entered into the U.S. for consumption unless accompanied by a valid export certificate.

Examples of that classification being applied to imports of wire rope include Customs Ruling 036046, November 1, 1974, holding that wire rope with a pad eye and becket loop attached to the pad eye was classifiable under item 642.20, TSUS, and Customs Ruling 808452, March 23, 1984, holding that wire rope with becket loops attached was classifiable under the same tariff item number.

Customs now believes that these rulings are wrong and should be revoked. The rationale leading to the decision to revoke these previous rulings was articulated in a Customs Service Headquarters decision on Application for Further Review of Protest No. 2304-2-000108, dated April 23, 1984, to the



District Director of Customs, Laredo Texas (file no. 072959). In that instance, some 7-wire prestressed concrete strand with a chuck at each end had been classified under item 642.11, TSUS, as "rope \* \* \* of wire \* \* \* not fitted with fittings and not made up into articles \* \* \* other". The protestant claimed the proper classification was under item 642.20, TSUS, because the chucks were "fittings" "fitted" on the strand.

In denying the protestant's claim, it was stated that the chucks facilitate further processing of the strand but do not dedicate the strand to a specific use. In that sense, the strand was not "fitted" or made suitable for a particular purpose. Also, it was noted that in the heading to item 642.11 and 642.20, TSUS, the fittings mentioned are of a class or kind of functional attachments, not temporary, facilitating attachments like a chuck.

The tariff classification Customs now believes should apply to the wire rope in question is "rope \* \* \* of wire \* \* \* not fitted with fittings and not made up into articles", in item 642.16, TSUS. That classification carries a column 1 rate of duty of 4% ad valorem, and is subject to VRA's. Therefore, even though the proposed change in tariff classification, if adopted, would result in the assessment of a lower rate of duty, it would result in import restrictions on the quantity of wire rope which could be entered into the U.S. for consumption.

In order to assist in our determination of this issue, Customs is requesting the views of the public on the proposed classification of the wire rope in item 642.16, TSUS, as opposed to classification in item 642.20, TSUS. If, after reviewing comments received in response to this notice, Customs decides to adopt this change in position, an effective date for the change must be determined. To assist in determining this date, written comments are also invited regarding an appropriate time frame within which the change in position should occur and reasons why such a time frame is appropriate.

#### Comments

Before making any determination on this matter, Customs will consider any written comments timely submitted. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between 9:00 a.m. and 4:30 p.m. on normal business days, at the Regulations Control Branch, Room 2324,

U.S. Customs Service Headquarters, 1301 Constitution Avenue NW., Washington, DC 20229.

#### Drafting Information

The principal author of this document was John Doyle, Regulations, Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

Michael H. Lane,

Acting Commissioner of Customs.

Approved: September 16, 1987.

John P. Simpson,

Acting Assistant Secretary of Treasury.

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BILLING CODE 4820-02-M

### RAILROAD RETIREMENT BOARD

#### 20 CFR Part 355

#### Implementation of Program Fraud Civil Remedies Act of 1986

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

**SUMMARY:** This proposed rule is required under the Program Fraud Civil Remedies Act of 1986 (PFCRA) because the Railroad Retirement Board (Board) is an authority within the meaning of that Act. The PFCRA establishes an administrative remedy against persons who make, submit or present fraudulent claims or statements to various federal authorities. This proposed rule is necessary for the Board to implement the provisions of the PFCRA.

**DATE:** Comments must be received on or before November 2, 1987.

**ADDRESS:** Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

**FOR FURTHER INFORMATION CONTACT:** Stanley Jay Shuman, General Attorney, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, (312) 751-4568, FTS 386-4568.

**SUPPLEMENTARY INFORMATION:** The PFCRA requires the promulgation of regulations by authorities in order to implement its provisions (31 U.S.C. 3809). The Board is an authority within the meaning of the PFCRA. These regulations are adopted from the final model regulations prepared by the President's Council on Integrity and Efficiency.

The Board has determined that this is not a major rule for purposes of Executive Order 12291. Therefore, no Regulatory Impact Analysis is required. In addition, this part does not impose any requirement for the collection of

information within the meaning of the Paperwork Reduction Act of 1980.

#### List of Subjects in 20 CFR Part 355

Administrative practice and procedure, Fraud, Investigations, Organizations and functions (Government Agencies), Penalties.

For the reasons set out in the Preamble, Chapter II, Title 20 of the Code of Federal Regulations is proposed to be amended as follows:

1. Subchapter E, consisting of Part 355 is added to read as follows:

#### Subchapter E—Administrative Remedies for Fraudulent Claims or Statements

#### PART 355—REGULATIONS UNDER THE PROGRAMS FRAUD CIVIL REMEDIES ACT OF 1986

Sec.

- 355.1 Basis and purpose.
- 355.2 Definitions.
- 355.3 Basis for civil penalties and assessments.
- 355.4 Investigation.
- 355.5 Review by the reviewing official.
- 355.6 Prerequisites for issuing a complaint.
- 355.7 Complaint.
- 355.8 Service of complaint.
- 355.9 Answer.
- 355.10 Default upon failure to file an answer.
- 355.11 Referral of complaint and answer to the ALJ.
- 355.12 Notice of hearing.
- 355.13 Parties to the hearing.
- 355.14 Separation of functions.
- 355.15 Ex parte contacts.
- 355.16 Disqualification of reviewing official or ALJ.
- 355.17 Rights of parties.
- 355.18 Authority of the ALJ.
- 355.19 Prehearing conferences.
- 355.20 Disclosure of documents.
- 355.21 Discovery.
- 355.22 Exchange of witness lists, statements and exhibits.
- 355.23 Subpoenas for attendance at hearing.
- 355.24 Protective order.
- 355.25 Fees.
- 355.26 Form, filing and service of papers.
- 355.27 Computation of time.
- 355.28 Motions.
- 355.29 Sanctions.
- 355.30 The hearing and burden of proof.
- 355.31 Determining the amount of penalties and assessments.
- 355.32 Location of hearing.
- 355.33 Witnesses.
- 355.34 Evidence.
- 355.35 The record.
- 355.36 Post-hearing briefs.
- 355.37 Initial decision.
- 355.38 Reconsideration of initial decision.
- 355.39 Appeal to authority head.
- 355.40 Stays ordered by the Department of Justice.
- 355.41 Stay pending appeal.
- 355.42 Judicial review.
- 355.43 Collection of civil penalties and assessments.



Sec.

- 355.44 Right to administrative offset.  
 355.45 Deposit in Treasury of United States.  
 355.46 Compromise or settlement.  
 355.47 Limitations.

Authority: 31 U.S.C. 3809.

#### § 355.1 Basis and purpose.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. No. 99-509, 6101-6104, 100 Stat. 1874 (October 21, 1986), to be codified at 31 U.S.C. 3801-3812. 31 U.S.C. 3809 of the statute requires each authority head to promulgate regulations necessary to implement the provisions of the statute.

(b) *Purpose.* This part—

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to authorities or to their agents, and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments.

#### § 355.2 Definitions.

*ALJ* means an Administrative Law Judge detailed to the authority pursuant to 5 U.S.C. 3344.

*Authority* means Railroad Retirement Board.

*Authority head* means the three-member Railroad Retirement Board.

*Benefits* means, except as the context otherwise requires, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

*Board* means Railroad Retirement Board.

*Claim* means any request, demand, or submission—

(a) Made to the authority for property, services, or money (including money representing grants, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the authority or to a party to a contract with the authority—

(1) For property or services if the United States—

(i) Provided such property or services;

(ii) Provided any portion of the funds for the purchase of such property or services; or

(iii) Will reimburse such recipient or party for the purchase of such property or services; or

(2) For the payment of money (including money representing grants, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(c) Made to the authority which has the effect of decreasing an obligation to pay or account for property, services, or money.

*Complaint* means the administrative complaint served by the reviewing official on the defendant under § 355.7.

*Defendant* means any person alleged in a complaint under § 355.7 to be liable for a civil penalty or assessment under § 355.3.

*Government* means the United States Government.

*Individual* means the natural person.

*Initial decision* means the written decision of the ALJ required by § 355.10 or § 355.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

*Investigating Official* means the Inspector General of the Railroad Retirement Board or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

*Knows or has reason to know* means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

*Makes*, wherever it appears, shall include the terms presents, submits, and causes to be made, presented, or submitted. As the context requires, *making* or *made* shall likewise include the corresponding forms of such terms.

*Persons* means any individual, partnership, corporation, association, private organization, State, political subdivision of a State, municipality, county, district, and Indian tribe, and includes the plural of that term.

*Presiding officer* means ALJ.

*Representative* means an attorney who is a member in good standing of the bar of any state, territory, or possession of the United States or of the District of Columbia.

*Reviewing official* means the General Counsel of the Board or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official; and

(b) Not employed in the organizational unit of the authority in which the investigating official is employed; and

(c) Is serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for grade GS-16 under the General Schedule.

*Statement* means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, loan, or benefit from the authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan, or benefit, or if the Government will reimburse such State, political subdivision, or party for any portion of the money or property under such contract or for such grant, loan, or benefit.

#### § 355.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to an authority, recipient, or party when such claim is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on



behalf of such authority, recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether such property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of such claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. Such assessment shall be in lieu of damage sustained by the Government because of such claim. However, such assessment shall not be in lieu of any recovery of erroneous payment as authorized by section 10 of the Railroad Retirement Act or section 2(d) of the Railroad Unemployment Insurance Act.

(b) *Statements.* (1) Except as provided in paragraph (c) of this section, any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in such statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement,

shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than \$5,000 for each such statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to an authority when such statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of such authority.

(c)(1) In the case of any claim or statement made by any individual relating to any of the benefits listed in paragraph (c)(2) of this section received by such individual, such individual may be held liable for penalties and assessments under this section only if such claim or statement is made by such individual in making application for such benefits with respect to such individual's eligibility to receive such benefits.

(2) For purposes of this paragraph, the term "benefits" means—

(i) any annuity or other benefit under the Railroad Retirement Act of 1974; which are intended for the personal use of the individual who receives the benefits or for a member of the individual's family.

(d) No proof of specific intent to defraud is required to establish liability under this section.

(e) In any case in which it is determined that more than one person is liable for making a claim or statement under this section, each such person may be held liable for a civil penalty under this section.

(f) In any case in which it is determined that more than one person is liable for making a claim under this section on which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any such person or jointly and severally against any combination of such persons.

#### § 355.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3804(a) is warranted—

(1) The subpoena so issued shall notify the person to whom it is addressed of the authority under which the subpoena is issued and shall identify the records or documents sought;

(2) He or she may designate a person to act on his behalf to receive the documents sought; and

(3) The person receiving such subpoena shall be required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that such documents are not available and the reasons therefor, or that such documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of such investigation to the reviewing official.

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit such official's discretion to defer or postpone a report or referral to avoid interference with a criminal investigation or prosecution.

(d) Nothing in this section modifies any responsibility of an investigating

official to report violations of criminal law to the Attorney General.

#### § 355.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 355.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 355.3 of this part, the reviewing official shall transmit to the Attorney General a written notice of the reviewing official's intention to issue a complaint under § 355.7.

(b) Such notice shall include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 355.3 this part;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

#### § 355.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 355.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 355.3(a) with respect to a claim, the reviewing official determines that, with respect to such claim or a group of related claims submitted at the same time such claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of § 355.3(a) does not exceed \$150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (e.g., grant, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.



(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

#### § 355.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 355.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint may result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

#### § 355.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgment of the defendant or his representative.

#### § 355.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer shall be deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

#### § 355.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 355.9(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 355.8, a notice that an initial decision will be issued under this section.

(c) If the defendant has failed to answer the complaint, the ALJ shall assume the facts alleged in the complaint to be true and, if such facts establish liability under § 355.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 355.38.

(h) The defendant may appeal to the authority head the decision denying a motion to reopen by filing a notice of appeal with the authority head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal

shall stay the initial decision until the authority head decides the issue.

(i) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(j) The authority head shall decide expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the authority head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the authority head shall remand the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the authority head decides that the defendant's failure to file a timely answer is not excused, the authority head shall reinstate the initial decision of the ALJ, which shall become final and binding upon the parties 30 days after the authority head issues such decision.

#### § 355.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

#### § 355.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 355.8. At the same time, the ALJ shall send a copy of such notice to the representative for the Government.

(b) Such notice shall include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

#### § 355.13 Parties to the hearing.

(a) The parties to the hearing shall be the defendant and the authority.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

#### § 355.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the authority who takes part in



investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the authority head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ shall not be responsible to, or subject to the supervision or direction of the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the authority, including in the offices of either the investigating official or the reviewing official.

#### § 355.15 Ex parte contracts.

No party or person (except employees of the ALJ's office) shall communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

#### § 355.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. Such motion shall be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) Such motion and affidavit shall be filed promptly upon the party's discovery of reasons requiring disqualification, or such objections shall be deemed waived.

(d) Such affidavit shall state specific facts that support the party's discovery of such facts. It shall be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of such a motion and affidavit, the ALJ shall proceed no further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case shall be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the authority head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

#### § 355.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

#### § 355.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the

responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to decide upon the validity of Federal statutes or regulations.

#### § 355.19 Prehearing conferences.

(a) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations, admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as may tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

#### § 355.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 355.4(b) are based unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplication, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that



portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 355.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 355.9.

#### § 355.21 Discovery.

(a) The following types of discovery are authorized:

- (1) Requests for production of documents for inspection and copying;
- (2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;
- (3) Written interrogatories; and
- (4) Depositions.

(b) For the purpose of this section and §§ 355.22 and 355.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 355.24.

(3) The ALJ may grant a motion for discovery only if he finds that the discovery sought—

- (i) Is necessary for the expeditious, fair, and reasonable consideration of the issues;
- (ii) Is not unduly costly or burdensome;
- (iii) Will not unduly delay the proceeding; and
- (iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 355.24.

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify

the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 355.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

#### § 355.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 355.33(b). At the time the above documents are exchanged, any party that intends to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, if permitted by the ALJ, shall provide each party with a copy of the specific pages of the transcript it intends to introduce into evidence.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is not prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of the section shall be deemed to be authentic for the purpose of admissibility at the hearing.

#### § 355.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. Such request shall specify any documents to

be produced and shall designate the witnesses and describe the address and location thereof with sufficient particularity to permit such witnesses to be found.

(d) The subpoena shall specify the time and place at which the witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 355.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

#### § 355.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may make any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) That the discovery not be had;
- (2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;
- (3) That the discovery may be had only through a method of discovery other than that requested;
- (4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;
- (5) That discovery be conducted with no one present except persons designated by the ALJ;
- (6) That the contents of discovery or evidence be sealed;
- (7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That a trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the ALJ.



**§ 355.25 Fees.**

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

**§ 355.26 Form, filing and service of papers.**

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting forth the title of the action, the case number assigned by the ALJ, and a designation of the paper (e.g., motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date of mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner or service, shall be proof of service.

**§ 355.27 Computation of time.**

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and includes that last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal government shall be excluded from the computation.

(c) Where a document has been served or issued by mail, an additional five days will be added to the time permitted for any response.

**§ 355.28 Motions.**

(a) Any application to the ALJ for an order or ruling shall be by motion. Motions shall state the relief sought, the authority relied upon, and the facts alleged, and shall be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions shall be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to such motion.

(d) The ALJ may not grant a written motion before the time for filing responses thereto has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny such motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

**§ 355.29 Sanctions.**

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any such sanction, including but not limited to those listed in paragraphs (c), (d), (e) of this section, shall reasonably relate to the severity and nature of the failure or misconduct.

(c) When a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with such order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

**§ 355.30 The hearing and burden of proof.**

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 355.3 and, if so, the appropriate amount of any such civil penalty or assessment considering and aggravating or mitigating factors.

(b) The authority shall prove defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall prove any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing shall be open to the public unless otherwise ordered by the ALJ for good cause shown.

**§ 355.31 Determining the amount of penalties and assessments.**

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and upon appeal, the authority head, should evaluate and circumstances that mitigate or aggravate the violation and should articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating such conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty should be imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the authority head in determining the amount of penalties and assessments to impose with respect to the misconduct (i.e., the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statement;

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;



(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the authority head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

#### § 355.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

#### § 355.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 355.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth.

(2) Avoid needless consumption of time, and

(3) Protect witnesses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross-examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witness identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an

individual employed by the Government engaged in assisting the representative for the Government.

#### § 355.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, e.g., to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 355.24.

#### § 355.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the authority head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to § 355.24.

#### § 355.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing such briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. Such briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ



may permit the parties to file reply briefs.

**§ 355.37 Initial decision.**

(a) The ALJ shall issue an initial decision based only on the record, which shall contain findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact shall include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 355.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 355.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the authority head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the parties of the reason for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the authority head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the final decision of the authority head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

**§ 355.38 Reconsideration of initial decision.**

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt will be presumed to be five days from the date of mailing in the absence of contrary proof.

((b) Every such motion must set forth the matter claimed to have been erroneously decided and the nature of the alleged errors. Such motion shall be accompanied by a supporting brief.

(c) Responses to such motions shall be allowed only upon request of the ALJ.

(d) No party may file a motion reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the authority head contained in § 355.38, and for finality of the initial decision in § 355.36(d), shall begin on the date the ALJ issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

**§ 355.39 Appeal to authority head.**

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the authority head in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 355.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The authority head may extend the initial 30 day period for an additional 30 days if the defendant files with the authority head a request for an extension within the initial 30 day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the authority head, the ALJ shall forward the record of the proceeding to the authority head.

(d) A notice of appeal shall be accompanied by written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the authority head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the authority head shall not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the authority head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present such evidence at such hearing, the authority head shall remand

the matter to the ALJ for consideration of such additional evidence.

(j) The authority head may affirm, reduce, reverse, compromise, remand, or settle any penalty or assessment, determined by the ALJ in any initial decision.

(k) The authority head shall promptly serve each party to the appeal with a copy of the decision of the authority head. At the same time authority head shall serve the defendant with a statement describing the defendant's right to seek judicial review.

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805 after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the authority head serves the defendant with a copy of the authority head's decision, a determination that a defendant is liable under § 355.3 is final and is not subject to judicial review.

**§ 355.40 Stays ordered by the Department of Justice.**

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the authority head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the authority head shall stay the process immediately. The authority head may order the process resumed only upon receipt of the written authorization of the Attorney General.

**§ 355.41 Stay pending appeal.**

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the authority head.

(b) No administrative stay is available following a final decision of the authority head.

**§ 355.42 Judicial review.**

Section 3805 of title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the authority head imposing penalties or assessments under this part and specifies the procedures for such review.

**§ 355.43 Collection of civil penalties and assessments.**

Sections 3806 and 3808(b) of title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.



**§ 355.44 Right to administrative offset.**

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 355.42 or § 355.43, or any amount agreed upon in a compromise or settlement under § 355.46, may be collected by administrative offset under 31 U.S.C. 3716, except that an administrative offset may not be made under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

**§ 355.45 Deposit in Treasury of United States.**

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

**§ 355.46 Compromise or settlement.**

(a) Parties may make offers of compromise or settlement at any time.

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(c) The authority head has exclusive authority to compromise or settle a case under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 355.42 or during the pendency of any action to collect penalties and assessments under § 355.43.

(d) The Attorney General has exclusive authority to compromise or settle a case under this part during the pendency of any review under § 355.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(e) The investigating official may recommend settlement terms to the reviewing official, the authority head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the authority head, or the Attorney General, as appropriate.

(f) Any compromise or settlement must be in writing.

**§ 355.47 Limitations.**

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 355.8 within 6 years after the date on which such claim or statement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 355.10(b) shall be deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

Dated: September 24, 1987.

By Authority of the Board.

For the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 87-22605 Filed 9-30-87; 8:45 am]

BILLING CODE 7905-01-M

**DEPARTMENT OF TRANSPORTATION****Coast Guard****33 CFR Part 117**

[CGD5 87-065]

**Drawbridge Operation Regulations; Mullica River, NJ**

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

**SUMMARY:** At the request of the Burlington County Board of Chosen Freeholders, and with the concurrence of Atlantic County, the Coast Guard is considering a change to the regulations governing the Lower Bank and Green Bank bridges, at miles 15.0 and 18.0, over the Mullica River at Lower Bank and Green Bank, New Jersey. The proposal requires advance notice for openings during the late evening hours of the boating season, from 1 April through 30 November, and at all times during the winter months. This proposal is based on the relative infrequent requests for bridge openings at night during the boating season and the limited use of the waterway during the winter. This action should relieve bridge owner's burden of having a person constantly available to open the draw at times of limited waterway use. It should still provide for the reasonable needs of navigation.

**DATE:** Comments must be received on or before November 16, 1987.

**ADDRESSES:** Comments should be mailed to Commander, Fifth Coast Guard District, c/o Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, New York 10004-5098. The comments and other material referenced in this notice will be available for inspection and copying at that address. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

**FOR FURTHER INFORMATION CONTACT:**

William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

**SUPPLEMENTARY INFORMATION:**

Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine a final course of action on this proposal. The proposed regulations may be changed in light of comments received.

Drafting Information: The drafters of these regulations are Waverly W. Gregory, Jr., project manager, and CDR Robert J. Reining, project attorney, Fifth Coast Guard District Legal Staff.

**Discussion of Proposed Regulations**

The Mullica River is primarily a recreational waterway. The Lower and Green Bank bridges are presently required to open on signal at all times. The proposed regulations would require at least 4 hours advance notice from 11:00 p.m. to 7:00 a.m. during the boating season and at all times during the winter months.

The Lower and Green Bank bridges have been operating contrary to the published regulations. The bridges have regularly been left unmanned during the night except when opening requests have been received in advance. The drawtender for the Lower Bank Bridge resides less than a mile from the bridge. The Green Bank drawtender resides adjacent to the bridge. Both respond upon telephone requests and vessel whistle signals, when heard. After 11 p.m., openings have only been provided by telephone requests to the drawtenders or New Jersey Department of Transportation. However, the phone numbers for contacting the drawtenders have not been posted at the bridges.

A review of the bridge opening logs for the years 1983, 1984, and 1985 show infrequent openings at night and during the winter. Only 82, 92, and 49 openings were logged during the months of December, January, February, and March of 1983, 1984, 1985. Nighttime transits during the boating seasons comprised less than five per cent of the transits.

However, marine interests indicate that one reason for the reduced openings at night are the past restrictions on openings placed by drawtenders. Visits to the marinas and facilities surrounding Mullica River revealed that the primary reason for the low number of transits at night are the potential hazards of navigating the waterway at night and



during periods of reduced or poor visibility.

Preliminary discussions with habitual users of the waterway revealed that, outside daylight and peak hours during the boating season of 1 April through 30 November, four hours notice for bridge openings would be feasible.

The proposal requires the draws to open on signal, except that the draws need not open unless at least four hours notice is given from 11 p.m. until 7 a.m., from 1 April through 30 November, and at all times from 1 December through 31 March. A sign indicating the operating hours and telephone number for the notice will be prominently displayed on the bridges. The proposal also provides for expeditious openings for public vessels and vessels in distress.

If the proposed regulations are issued, the owner has assured the Coast Guard that the bridges will be manned continuously, except during the periods when advance notice is required.

In conjunction with these proposed regulations, the bridge owner has agreed to install marine radios to facilitate improved communications between the drawtenders and mariners.

#### Economic Assessment and Certification

These proposed regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact has been found to be so minimal that a full regulatory evaluation is unnecessary.

This waterway is used primarily by recreational vessels. Only one facility would be minimally affected by the winter restrictions. The facility works from 7 a.m. to 6 p.m. during the winter months and insisted that openings be provided on signal during this period of time. However, the number of openings that are in fact required by that facility is insignificant. It is the Coast Guard's position that the requirement for four hours advance notice would not impose an unreasonable burden upon that facility.

Since the impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 33 CFR Part 117

Bridges.

#### Proposed Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal

Regulations is proposed to be amended as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05-1(g).

2. Section 117.731a added to read as follows:

##### § 117.731a Mullica River.

The draws of the Lower Bank and Green Bank bridges, miles 15.0 and 18.0, at Lower Bank and Green Bank, New Jersey, shall open on signal, except that:

(a) The draws need not open unless at least four hours notice is given—  
(1) from 11 p.m. to 7 a.m., from 1 April through 30 November and  
(2) at all times from 1 December through 31 March.

(b) The draws shall open as soon as possible during the periods when four hours notice is required for vessels in distress and public vessels of the United States, state, or local vessels used for public safety purposes.

Dated: September 10, 1987.

A.D. Breed,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 87-22732 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-14-M

#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Part 67

[CC Docket No. 80-286]

#### Common Carrier Services MTS and WATS Market Structure, Amendment of the Commission's Rules and Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: In response to a request this Order extends the time for filing comments, data and reply comments in CC Docket No. 80-286, concerning the separations and cost recovery treatment of marketing expenses.

DATES: Comments are now due by October 13, 1987 and Reply comments by October 28, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Patricia Shipley, Accounting and Audits

Division, Common Carrier Bureau, (202) 632-7500.

SUPPLEMENTARY INFORMATION: The Commission is responding to a request filed September 4, 1987 from the United States Telephone Association in response to the Memorandum Opinion and Order on Reconsideration and Supplemental Notice of Proposed Rulemaking released August 18, 1987. (52 FR 32937 September 1, 1987).

#### List of Subjects in 47 CFR Part 67

Communications common carriers, Telephone, Jurisdictional separations procedures.

Carl D. Lawson,

Deputy Chief, Policy Common Carrier Bureau. [FR Doc. 87-22685 Filed 9-30-87; 8:45 am]

BILLING CODE 6712-01-M

##### 47 CFR Part 73

[MM Docket No. 87-380; RM-5732]

#### Radio Broadcasting Services; Thief River Falls, MN

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document requests comments on a petition filed by Northern Minnesota Associates, proposing the allotment of FM Channel 257A to Thief River Falls, Minnesota, as that community third FM broadcast service. Canadian concurrence is necessary for the allotment of Channel 257A at Thief River Falls. Channel 257A was removed from the Table of Allotments in MM Docket 85-370, 51 FR 27552, August 1, 1986, but is still utilized by Station KSNR(FM), Thief River Falls. Station KSNR(FM) has since filed an acceptable application to change its facility to Channel 262C1.

DATES: Comments must be filed on or before November 19, 1987, and reply comments on or before December 4, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or its counsel or consultant, as follows: Eugene T. Smith, 715 G Street SE., Washington, DC 20003, (Counsel for the petitioner).

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-380, adopted August 25, 1987, and



released September 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, See 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 87-22681 Filed 9-30-87; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 87-383, RM-5933]

#### Radio Broadcasting Services; Crockett, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** This document requests comments on a petition by Norman Fischer, Receiver and B. S. T. Broadcasting, Inc., licensee and proposed assignee, respectively, of Station KCKR(FM), Channel 228A, Crockett, Texas, proposing the substitution of Channel 228C2 for Channel 228A at Crockett and modification of the station license to specify operation on the higher class channel. The proposal could provide that community with its first wide coverage area FM station.

**DATES:** Comments must be filed on or before November 19, 1987, and reply comments on or before December 4, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, or their counsel or consultant, as follows: Joseph E. Dunne III, Esquire, May & Dunne, Chartered, 1156 15th Street NW., Suite 515, Washington, DC 20005-1704 (Counsel to petitioner).

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-383, adopted August 25, 1987, and released September 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-22683 Filed 9-30-87; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 73

[MM Docket No. 87-382, RM-5904]

#### Radio Broadcasting Services; Colonial Heights, Petersburg, and Charlottesville, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

**SUMMARY:** This document requests comments on a joint petition by EPVA,

Inc., licensee of Station WKHK(FM), Channel 237A, Colonial Heights, Virginia and Charlottesville Broadcasting Corporation, licensee and Station WQMC(FM), Channel 237A, Charlottesville, Virginia, proposing the substitution of Channel 237B1 for Channel 237A at Colonial Heights and modification of the license of Station WKHK(FM) to reflect the higher frequency. In order to accomplish this channel substitution it is necessary to substitute Channel 236A for 237A at Charlottesville, Virginia. The substitution could provide Colonial Heights with its first wide coverage area FM station. We also propose to reallocate Channel 237A from Petersburg, Virginia, to reflect its actual usage at Colonial Heights.

**DATES:** Comments must be filed on or before November 19, 1987, and reply comments on or before December 4, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioners, of their counsel or consultant, as follows:

Alan C. Campbell, Esquire, a. Kimberly Mathews, Esquire, Dow, Lohnes & Albertson, 1255 23rd Street NW., Suite 500, Washington, DC 20037 (Counsels for WPVA, Inc.).

Benjamin F.P. Ivins, Esquire, Covington & Burling, 1201 Pennsylvania Ave. NW., P.O. Box 7566, Washington, DC 20044, (Counsel for Charlottesville Broadcasting Corporation).

**FOR FURTHER INFORMATION CONTACT:** Patricia Rawlings, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 87-382, adopted August 25, 1987, and released September 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in



Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1231 for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Mark N. Lipp,

Chief, Allocations Branch, Mass Media Bureau.

[FR Doc. 87-22682 Filed 9-30-87; 8:45 am]

BILLING CODE 6712-01-M

#### 47 CFR Part 76

[MM Docket No. 84-1296; FCC 87-307]

#### Cable Television; Implementation of Cable Communications Policy Act of 1984

**AGENCY:** Federal Communications Commission.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Court of Appeals for the District of Columbia Circuit decision in *American Civil Liberties Union v. FCC* remanded to the Commission the signal availability standard in the effective competition test for a reasoned explanation of the chosen standard or the development of a new standard. This Further Notice of Proposed Rule Making discusses alternative solutions to the court's concerns with respect to the measures of signal availability, the degree of signal coverage, and the waiver standards.

**DATE:** Comments due November 4, 1987; replies due November 19, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Judith Herman, Mass Media Bureau, (202) 632-6302.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Further Notice of Proposed Rule Making in MM Docket No. 84-1296, adopted September 17, 1987, and released September 28, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the

Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

#### Summary of the Further Notice of Proposed Rule Making

1. The Cable Communications Policy Act of 1984 (Cable Act) requires the Commission to define the circumstances and conditions under which franchising authorities are to be permitted to regulate the rates charged by cable operators for "basic cable service." Section 623 of the Cable Act instructs the Commission to permit local rate regulation in those circumstances where cable systems do not face effective competition. In the *Report and Order* in this proceeding (50 FR 18637 (1985)), the Commission determined that effective competition for a cable system would exist where any three "off-the-air" broadcast signals were available in the cable community. The Commission also ruled that a broadcast signal would be deemed available in either of the following circumstances: (1) The signal places a predicted Grade B contour over any portion of the cable community; or, (2) the signal is "significantly viewed."

2. Upon review, the U.S. Court of Appeals for the District of Columbia Circuit concluded that, for the most part, the rules adopted by the Commission are reasonable and consistent with the Cable Act. The court did, however, find several portions of the *Report and Order* to be arbitrary or inconsistent with the Cable Act and remanded these to the Commission for further action. One of these concerns the effective competition test used in determining where local authorities will be permitted to regulate rates for basic cable service. The court remanded to the Commission for a reasoned explanation of the chosen standard or the development of a new standard the issue of how much of a community had to be covered by a broadcast signal for that signal to be considered available for purposes of meeting the effective competition test. The court found unacceptable the Commission's decision to count every signal that covers any portion of the cable community and also indicated that there are potential difficulties with the significant viewing aspect of the standard. In addition, it noted with concern the substantial barrier the current waiver system may place on franchising authorities.

3. In this Further Notice of Proposed Rule Making (Further Notice) the

Commission discusses alternative solutions to the court's concerns with respect to the measures of signal availability, the degree of signal coverage, and the waiver standards. The Commission specifically proposes to use its Grade B contour and significant viewing in the cable community standards as the measures of signal availability; to establish that a cable system faces effective competition if at least 75 percent of the cable community is covered by three or more off-the-air signals; and, to modify the field strength measurement requirements and use other factors, such as cable penetration, in the waiver procedure to decrease the burden placed on both franchising authorities and cable operators.

4. This is a non-restricted notice and comment rule making proceeding. See § 1.1231 of the Commission's Rules, 47 CFR 1.1231, for rules governing permissible *ex parte* contacts.

5. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 603, this proceeding proposes to revise the signal availability standard in the effective competition test, in accordance with the requirements of the decision in *ACLU*. The rules proposed herein will increase the number of cable systems that could be subject to rate regulation by franchising authorities, relative to the number of cable systems affected by our existing standard.

6. This proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to impose new or modified requirements of burdens on the public. Implementation of any new or modified requirements will be subject to approval by the Office of Management and Budget as prescribed by the Act.

7. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before November 4, 1987; and reply comments on or before November 19, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

#### List of Subjects in 47 CFR Part 76

Cable television.

William J. Tricarico,

Secretary.

[FR Doc. 87-22679 Filed 9-30-87; 8:45 am]

BILLING CODE 6712-01-M



**DEPARTMENT OF TRANSPORTATION****Office of the Secretary****49 CFR Part 27****[Docket 45162 Notice No. 87-19]****Nondiscrimination on the Basis of Handicap in Department of Transportation Financial Assistance Programs****AGENCY:** Office of the Secretary, DOT.**ACTION:** Advance notice of proposed rulemaking.

**SUMMARY:** The Department of Transportation is considering whether it would be advisable to amend its regulation on nondiscrimination on the basis of handicap in DOT-assisted programs, as that regulation affects mass transit services, to require transit operators to provide additional accommodations or services to persons with developmental disabilities, other mental impairments, or visual impairments on their service for the general public. This Department seeks views and information from interested persons on this matter.

**DATES:** *Comment closing date:* Comments should be received by December 30, 1987. Late-filed comments will be considered to the extent practicable.

**ADDRESS:** Comments should be sent to the Docket Clerk, Docket No. 45162, Room 4107, Department of Transportation, 400 Seventh Street SW., Washington, DC 20590. Commenters wishing the receipt of their comments to be acknowledged should enclose a stamped, self-addressed postcard with their comment. The docket clerk will time and date stamp the card and return it to the commenter.

**FOR FURTHER INFORMATION CONTACT:**

Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 Seventh Street SW., Room 10424, Washington, DC 20590. (202) 366-9306 (voice); 202-755-7687 (TDD).

**SUPPLEMENTARY INFORMATION:** This advance notice of proposed rulemaking (ANPRM) concerns accommodations for persons with developmental disabilities or other mental impairments on the mass transit services for the general public operated by recipients of Federal financial assistance from the Urban Mass Transit Administration (UMTA). The notice also seeks comment on accommodations on mainline mass transit services for persons with impaired vision or hearing. This notice concerns ways of assisting persons with these kinds of disabilities who are

otherwise able to use mainline transit services. This notice does not focus on special service systems established to provide transportation for persons who, by reason of a disability, are physically incapable of using the mainline services.

If rulemaking is undertaken as a result of this notice, the rulemaking would involve an amendment to the Department's rule on nondiscrimination on the basis of handicap in federally-assisted programs (49 CFR Part 27). Because the issues involved in this notice pertain to individuals who are physically able to use mainline transit systems, the Department does not anticipate that the costs of complying with new regulatory requirements resulting from this section would be eligible expenses in the calculation of the limit on required expenditures under § 27.99 of that rule. Eligible expenses for purposes of § 27.99 are intended to be those specifically incurred for service to persons who, by reason of handicap, are physically unable to use mainline transit systems.

It is likely that there are a number of persons with developmental disabilities or other mental impairments who (1) are not, because of a disability, physically incapable of using mainline mass transit services; (2) function at levels sufficient to make independent travel possible; and (3) may need some accommodations or assistance to make independent travel on mainline transit systems feasible on a regular basis. In the Regulatory Impact Analysis for the Department's May 23, 1986, final rule on mass transit services for persons with disabilities, the Department estimated that there could be up to four million people nationwide in this category. The Department is interested in learning from commenters if there are more precise estimates of this population available.

At the present time, 49 CFR Part 27 does not include any specific provision for special accommodations to assist persons with developmental disabilities or other mental impairments in using mainline transit services. The Department and UMTA have never interpreted any of their regulations as requiring such accommodations. Consequently, it is the Department's view that, in order to impose such requirements, it would be necessary to amend its regulations. This notice seeks comment on whether such an amendment is appropriate and, if so, what it should provide.

There are, in the Department's regulations, some provisions concerning persons with vision and hearing impairments. For example, 49 CFR 27.87(b)(4) requires recipients to make information about routes and schedules

available in a form that such persons can use. The Department has also noted that, in some circumstances, the absence of accommodations for blind persons on the regular bus system (e.g., calling out stops on a regular basis), could make blind persons eligible for special service under 49 CFR 27.95(b)(1). However, there are no explicit requirements for special accommodations for persons with vision impairments on mainline transit vehicles.

The first area in which special accommodations might be made is the provision of information to riders. Blind riders, as well as persons with developmental disabilities or other mental impairments whose cognitive ability to recognize stops is limited, may need a reliable, regular system for announcing upcoming stops in order to make regular, independent use of mainline transit service feasible.

For example, often, two or three buses will stop at the same time at the same bus stop. Persons with these disabilities may need assistance in recognizing the proper bus to enter. Announcements, or some other means of letting passengers who, as the result of a disability, cannot see or read the route signs on the bus, may be necessary in order to allow such persons to get on the right bus consistently.

The Department seeks comment on the merits of a requirement for accommodations of this kind. Are accommodations of this sort really needed, or are persons with disabilities of these kinds able (with or without special training) to use regular transit services in the absence of the accommodations? Would announcements of this kind be effective in assisting persons with visual or mental impairments to use regular mainline transit systems? What modifications to existing vehicles and practices would be necessary to make these accommodations? What differences between different types of transit systems (e.g., bus vs. commuter rail) are relevant for this purpose? What are the costs and benefits of various approaches likely to be?

Another area of concern is training. First, it is possible that additional training for vehicle operators and other public contact personnel could be useful in helping the employees recognize the needs of people with visual and mental disabilities and respond appropriately to those needs. Second, it is possible that training for disabled passengers would enable them to use the system more easily.

In both cases, what should the content of the training be? How effective would it be in helping drivers and other public



contact personnel to assist disabled passengers or helping disabled passengers cope with the system? What benefits could be expected? Who should be trained, for how long, and how often? Are there existing models for such training on which the Department could build in establishing a training requirement? Who should provide and pay for the training and how much would it cost? Should there be Federal standards for such training? Would a brochure or pamphlet designed to assist persons with mental disabilities in using the system be a useful device, either in addition to or in place of training?

With respect to persons with vision impairments, developmental disabilities, or other mental impairments, it is possible that some alteration in the signage or graphics on vehicles or bus and rail stops might be useful in facilitating ridership. The Department has very little information on this point. Are there any studies that indicate what sorts of changes to signage or graphics,

if any, would facilitate the use of transportation systems by such persons? What incremental benefits in the use of mainline transportation systems would enhanced signage or graphics have for persons with developmental or other mental disabilities? Are such changes feasible on the scale of an urban mass transit system? What are the likely costs of making them?

The Department is aware that there may be other accommodations which would facilitate the use of mainline transit systems by persons with developmental disabilities, other mental disabilities, or vision impairments. The Department seeks comment on what such other accommodations are, as well as on their necessity, effectiveness, feasibility, benefits and costs. The Department also seeks comment on what accommodations might be needed for persons with other kinds of disabilities (e.g., hearing impairments) who are able to use mainline transit services.

The Department has concluded, tentatively, that a proposed rule resulting from this ANPRM would not be a major rule under Executive Order 12291 or a significant rule under the Department of Transportation's Regulatory Policies and Procedures. Based on comments received, the Department will determine whether the economic impacts of such a proposal would be sufficient to warrant the preparation of a regulatory evaluation or regulatory flexibility analysis, should a notice of proposed rulemaking be issued.

#### List of Subjects in 49 CFR Part 27

Handicapped, Mass transportation.

Issued this 15th day of September, 1987, at Washington DC.

Elizabeth Dole,

Secretary of Transportation.

[FR Doc. 87-22724 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-62-M



# Notices

Federal Register

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This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

### Committee on Regulation; Public Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Regulation of the Administrative Conference of the United States, to be held at 2:00 p.m. on Tuesday, October 13, 1987, at the office of Steptoe and Johnson, 4th floor conference room, 1330 Connecticut Avenue, NW., Washington, DC.

The Committee will meet to discuss the report by Professor Eleanor Kinney, "National Coverage Policy Under the Medicare Program: Problems and Proposals for Change."

For further information concerning this meeting, contact Sara Gordon, Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, DC. (Telephone: 202-254-7020)

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify Ms. Gordon at least one day in advance. The Committee chairman, if he deems it appropriate, may permit members of the public to present oral statements at the meeting. Any member of the public may file a written statement with the Committee before, during or after the meeting. Minutes of the meeting will be available on request.

Jeffrey S. Lubbers,  
Research Director.  
September 29, 1987.

[FR Doc. 87-22802 Filed 9/30/87; 8:45 am]

BILLING CODE 5110-01-M

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### Meat Import Limitations; Fourth Quarterly Estimate

Public Law 88-482, enacted August 22, 1964, as amended by P.L. 96-177 (hereinafter referred to as the "Act"), provides for limiting the quantity of fresh, chilled, or frozen meat of cattle, sheep except lambs, and goats (TSUS 106.10, 106.22, and 106.25), and certain prepared or preserved beef and veal products (TSUS 107.55, 107.61, and 107.62) which may be imported into the United States in any calendar year. Such limitations are to be imposed when the Secretary of Agriculture estimates that imports of articles provided for in TSUS 106.10, 106.22, 106.25, 107.55 and 107.62 (hereinafter referred to as "meat articles"), in the absence of limitations under the Act during such calendar year, would equal or exceed 110 percent of the estimated aggregate quantity of meat articles prescribed for calendar year 1987 by subsection 2(3) as adjusted under subsection 2(d) of the Act.

As published on January 5, 1987 (52 FR 311), the estimated aggregate quantity of meat articles prescribed by subsection 2(c), as adjusted by subsection 2(d) of the Act, for calendar year 1987 is 1,309 million pounds.

In accordance with the requirements of the Act, I have determined that the fourth quarterly estimate for 1987 of the aggregate quantity of meat articles which would, in the absence of limitations under the Act, be imported during calendar year 1987 is 1,439 million pounds.

Done at Washington, DC, this 28th day of September, 1987.

Richard E. Lyng,

Secretary of Agriculture.

[FR Doc. 87-22897 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-10-M

### Commodity Credit Corporation

#### Milk Price Support Program Through December 31, 1987

**AGENCY:** Commodity Credit Corporation, USDA.

**ACTION:** Notice of milk price support level and Commodity Credit Corporation purchase prices.

**SUMMARY:** This notice announces that the support price for milk containing 3.67 percent milkfat shall be \$11.10 per hundredweight (cwt.) for the period October 1, 1987, through December 31, 1987. The prices at which butter, cheese and nonfat dry milk will be purchased by the Commodity Credit Corporation (CCC) in order to support the price of milk at that level are also set forth in this notice.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Indulis Kancitis, Dairy Division, ASCS-USDA, 5747 South Building, P.O. Box 2415, Washington, DC 20013 (202)-447-3385.

The Final Regulatory Impact Analysis regarding the actions of this Notice of Determination will be available from Charles N. Shaw, Dairy/Sweeteners Group, ASCS-USDA, P.O. Box 2415, Washington, DC 20013: (202)-447-7601.

**SUPPLEMENTARY INFORMATION:** This Notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "major" since the provisions of this notice will have an effect on the economy exceeding \$100 million.

The title and number of the Federal Assistance Program to which this notice applies are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

The Regulatory Flexibility Act is not applicable to this notice since CCC is not required to publish a notice of proposed rulemaking with respect to level of price support and prices paid to producers of milk. Pursuant to sections 102 and 1017 of the Food Security Act of 1985 (Pub. L. 99-198) (the "1985 Act") the provisions of section 201(d) of the Agricultural Act of 1949, as amended (the "1949 Act"), may be implemented without regard to the provisions requiring notice and other public procedures for public participation in rulemaking as set forth in 5 U.S.C. 553 or in any directive of the Secretary of Agriculture.

It has been determined by an Environmental Evaluation that the determination set forth in this notice is not expected to have any significant impact on the quality of the human environment. In addition, this action will



not adversely affect environmental factors such as water quality or air quality. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is required.

This program/activity is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 201(d) of the 1949 Act provides that, effective for the period beginning October 1, 1987, and ending December 31, 1990, the price of milk shall be supported at a rate equal to \$11.10 per cwt. for milk containing 3.67 per centum milkfat. This is a reduction

in the support price for milk which has been \$11.35 per cwt. since January 1, 1987.

Section 201(d) of the 1949 Act also provides for an increase or decrease of 50 cents per cwt. in the price support level for milk from that in effect on January 1, 1988, 1989, and 1990, on the basis of the Secretary of Agriculture's estimates of net surplus purchases of dairy products under the milk price support program for the respective calendar years 1988, 1989, and 1990.

It has been determined that the purchase by CCC of butter, cheese and nonfat dry milk produced on or after October 1, 1987, at the prices set forth in this notice will support the price of milk, during the period October 1, 1987, through December 31, 1987, at a rate

equivalent to \$11.10 per cwt. for milk containing 3.67 percent milkfat.

#### Determinations

Accordingly:

(1) The level of price support for the period October 1, 1987, through December 31, 1987, shall be \$11.10 per cwt. for milk containing 3.67 percent milkfat.

(2) The purchase of butter, cheese and nonfat dry milk produced on or after October 1, 1987, at the prices set forth below will support the price of milk at a rate equivalent to \$11.10 per cwt. for milk containing 3.67 per centum milkfat. Therefore, effective October 1, 1987, through December 31, 1987, Commodity Credit Corporation (CCC) purchase prices for butter, cheese and nonfat dry milk shall be as follows:

[Dollars per pound]

	Products produced before October 1, 1987, and Graded and offered by October 15, 1987	Products produced on or after October 1, 1987, or not graded and offered by October 15, 1987
Butter, 64- & 68-lb. blocks (U.S. Grade A or higher).....	1.3775	1.3575
Nonfat dry milk (spray), 50-lb. bags (U.S. Extra Grade, but not more than 3.5 percent moisture):		
Nonfortified.....	.7875	.7675
Fortified (Vitamins A and D).....	.7975	.7775
Cheddar cheese, standard moisture basis: <sup>1</sup>		
40- and 60-pound blocks, U.S. Grade A or higher (No vat shall contain more than 38.5 percent moisture).....	1.2250	1.2000
50 lb. in fiber barrels, U.S. Extra Grade (No vat shall contain more than 36.5 percent moisture).....	1.1825	1.1575

<sup>1</sup> The cheese price will be adjusted for moisture content, except that the price adjustment for cheese with a moisture content of less than 34 percent will not exceed that for cheese with a moisture content of 34 percent.

(3) Further terms and conditions for CCC price-support purchases of butter, cheese, and nonfat dry milk will be set forth in CCC purchase announcements with respect to such purchases.

**Authority:** Sec. 201(d) of the Agricultural Act of 1949, as amended, 63 Stat. 1042, as amended (7 U.S.C. 1446(d)); and secs. 4 and 5 of the Commodity Credit Corporation Charter Act, as amended, 62 Stat. 1070, as amended, 62 Stat. 1072 (15 U.S.C. 714b and 714c).

Signed at Washington, DC, on September 15, 1987.

Peter C. Myers,

Acting Secretary of Agriculture.

[FR Doc. 87-22643 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-05-M

#### Office of Energy

#### Change in Date of Meeting; USDA National Panel on Cost Effectiveness of Fuel Ethanol Production

**AGENCY:** Office of Energy, USDA.

**ACTION:** Notice of Change in meeting date.

**SUMMARY:** In accordance with Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Office of Energy, USDA announces a change in the date of a forthcoming meeting of the National Panel on Cost Effectiveness of Fuel Ethanol Production.

The meeting scheduled for October 14, 1987, as previously announced in the *Register* (52 FR 32821) has been cancelled. A new date for the meeting has been scheduled.

**DATE AND TIME:** October 22, 1987, 8:30 a.m. to 4:30 p.m.

**ADDRESS:** Main Conference Room, 4300 King Street, Alexandria, Va. 22302.

**FOR FURTHER INFORMATION CONTACT:** Earle E. Gavett, Office of Energy, USDA, Washington, DC 20250-2600, 202-447-2634.

**SUPPLEMENTARY INFORMATION:** The USDA National Panel on Cost

Effectiveness of Fuel Ethanol Production was established under section 13 of the Farm Disaster Assistance Act of 1984 (Pub. L. 100-45) to conduct a study of the cost effectiveness of fuel ethanol production for Congress and the Secretary of Agriculture. The Panel is comprised of seven members representing various agricultural, fuel ethanol and government interests.

The meeting will be open to the public. Agenda: October 22, 1987.

8:30 a.m.—Review and approve Final Report.

4:30 p.m.—Adjourn.

Earle E. Gavett,  
Director, Office of Energy.

[FR Doc. 87-22696 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-73-M

#### National Panel on Cost Effectiveness of Fuel Ethanol Production; Meeting by Conference Call

**AGENCY:** Office of Energy, USDA.



**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the Office of Energy, USDA announces a forthcoming meeting by conference call of the National Panel on Cost Effectiveness of Fuel Ethanol Production.

**DATE AND TIME:** October 15, 1987, 10:00 a.m. Eastern Daylight Savings Time.

**ADDRESS:** Main Conference Room, Fourth Floor, 4300 King Street, Alexandria, Virginia 22302.

**FOR FURTHER INFORMATION CONTACT:** Earle E. Gavett, Office of Energy, USDA, Washington, DC 20250-2600, 202-447-2634.

**SUPPLEMENTARY INFORMATION:** The USDA National Panel on Cost Effectiveness of Fuel Ethanol was established under section 13 of the Farm Disaster Assistance Act of 1987 (Pub. L. 100-45) to conduct a study of the cost effectiveness of fuel ethanol production for Congress and the Secretary of Agriculture. The Panel is comprised of seven members representing various agricultural, fuel ethanol and government interests. The meeting will be open to the public.

**Agenda**

10:00 a.m. Discussion of revised Chapter 3, Ethanol Fuels and Agriculture, of draft report.

12:00 noon (approximately). Adjourn.

Earle E. Gavett,

Director, Office of Energy.

[FR Doc. 87-22695 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-01-M

**Federal Grain Inspection Service****Designation Renewal of the Hastings Agency (NE) and State of New York**

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice announces the designation renewal of the Hastings Grain Inspection, Inc. (Hastings) and New York State Department of Agriculture and Markets (New York), as official agencies responsible for providing official services under the U.S. Grain Standards Act, as Amended (Act).

**EFFECTIVE DATE:** November 1, 1987.

**ADDRESS:** James R. Conrad, Chief, Review Branch, Compliance Division, FGIS, USDA, Room 1647 South Building, P.O. Box 96454, Washington, DC 20090-6454.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447-8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced that Hastings' and New York's designations terminate on October 31, 1987, and requested applications for official agency designation to provide official services within specified geographic areas in the May 1, 1987, *Federal Register* (52 FR 15967). Applications were to be postmarked by June 1, 1987. Hastings and New York were the only applicants for designation in their geographic area and each applied for designation renewal in the area currently assigned to that agency.

The Service announced the applicant names in the July 1, 1987, *Federal Register* (52 FR 24489) and requested comments on the designation renewal of Hastings and New York. Comments were to be postmarked by August 17, 1987; none were received.

The Service evaluated all available information regarding the designation criteria in section 7(f)(1)(A) of the Act; and, in accordance with section 7(f)(1)(B), determined that Hastings and New York are able to provide official services in the geographic area for which the Service is renewing their designations. Effective November 1, 1987, and terminating October 31, 1990, Hastings and New York will provide official inspection service in their entire specified geographic area, previously described in the May 1 *Federal Register*.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency for the performance of official inspection or Class X or Class Y weighing services and where the agency and one or more of its inspectors or weighers is located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring an inspector or weigher to all locations within its geographic area.

Interested persons may receive a listing of an agency's specified service points by contacting either the Review Branch, Compliance Division, at the address listed above or the agencies at the following addresses: Hastings Grain Inspection, Inc., 306 East Park Street, Hastings, NE 68901, and New York State Department of Agriculture and Markets,

State Campus, Building 8, Albany, NY 12235.

(Pub. L. 94-582, 90 Stat. 2867, as amended, 7 U.S.C. 71 et seq.)

Date: September 16, 1987.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 87-22485 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-EN-M

**Request for Comments on Designation Applicants in the Geographic Area Currently Assigned to the States of California and Washington**

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice requests comments from interested parties on the applicants for official agency designation in the geographic area currently assigned to the California Department of Food and Agriculture (California) and Washington Department of Agriculture (Washington).

**DATE:** Comments to be postmarked on or before November 16, 1987.

**ADDRESS:** Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, FGIS, USDA, Room 1661 South Building, P.O. Box 96454, Washington, DC 20090-6454.

Telemail users may respond to [IRSTAFF/FGIS/USDA] telemail.

Telex users may respond as follows:

To: Lewis Lebakken

TLX: 7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Lewis Lebakken, Jr., telephone (202) 382-1738.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service requested applications for official agency designation to provide official services within specified geographic areas in the August 3, 1987, *Federal Register* (52 FR 28738). Applications were to be postmarked by September 2, 1987. California and Washington were the only applicants for designation in their geographic area and



each applied for designation in their geographic area and each applied for designation renewal in the area currently assigned to that agency.

This notice provides interested persons the opportunity to present their comments concerning the designation of the applicants. Commenters are encouraged to submit reasons for support or objection to these designation actions and include pertinent data to support their views and comments. All comments must be submitted to the Information Resources Staff, Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the *Federal Register*, and the applicants will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended, 7 U.S.C. 71 *et seq.*)

Date: September 16, 1987.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 87-22486 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-EN-M

# **Request for Designation Applicants To Provide Official Services in the Geographic Area Currently Assigned to the Gibson City (IL) and Indianapolis (IN) Agencies and State of Wyoming**

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** Pursuant to the provisions of the U.S. Grain Standards Act, as Amended (Act), official agency designations shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties interested in being designated as the official agency to provide official services in the geographic area currently assigned to the specified agencies. The official agencies are the Gibson City Grain Inspection Department (Gibson City), Indianapolis Grain Inspection & Weighing Service, Inc. (Indianapolis), and Wyoming Department of Agriculture (Wyoming).

**DATE:** Applications to be postmarked on or before November 2, 1987.

**ADDRESS:** Applications must be submitted to James R. Conrad, Chief, Review Branch, Compliance Division, FCIS, USDA, Room 1647 South Building,

P.O. Box 96454, Washington, DC 20090-6454. All applications received will be made available for public inspection at this address located at 1400 Independence Avenue, SW., during regular business hours.

**FOR FURTHER INFORMATION CONTACT:** James R. Conrad, telephone (202) 447-8525.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(f)(1) of the Act specifies that the Administrator of the Service is authorized, upon application by any qualified agency or person, to designate such agency or person to provide official services after a determination is made that the applicant is better able than any other applicant to provide official services in an assigned geographic area.

Gibson City, located at 207 East 8th Street, P.O. Box 20, Gibson City, IL 60936; Indianapolis, located at 4804 East Michigan Street, Indianapolis, IN 46201; and Wyoming, located at 2219 Carey Avenue, Cheyenne, WY 82001-0010, were each designated under the Act as an official agency to provide inspection functions on April 1, 1985.

Each official agency's designation terminates on March 31, 1988. Section 7(g)(1) of the Act states that designations of official agencies shall terminate not later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Gibson City, in the State of Illinois, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bounded on the North by the northern Livingston County line from the ICG Railroad line;

Bounded on the East by the Livingston County line; the Ford County line; the southern Ford County line west to Interstate 57; Interstate 57 south to State Route 136;

Bounded on the South by State Route 136 west to a point approximately 10 miles west of the eastern McLean County line; and

Bounded on the West from this point through Arrowsmith to Pontiac along a straight line running north and south which intersects with the ICG Railroad line northeast to the northern Livingston County line.

The following location, outside of the foregoing contiguous geographic area is presently assigned to Gibson City and is part of this geographic area assignment: Farm Service, Arrowsmith, McLean County.

An exception to the described geographic area is the following location situated inside Gibson City's area which has been and will continue to be serviced by Bloomington Grain Inspection Department: Bunge Corporation, Pontiac, Livingston County.

The geographic area presently assigned to Indianapolis, in the State of Indiana, pursuant to section 7(f)(2) of the Act, which may be assigned to the applicant selected for designation is as follows:

Bartholomew; Brown; Hamilton, south of State Route 32; Hancock; Hendricks; Johnson; Madison, west of State Route 13 and south of State Route 132; Marion; Monroe; Morgan; and Shelby Counties.

The geographic area presently assigned to Wyoming, pursuant to section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation, is the entire State of Wyoming, except the geographic area assigned to Denver Grain Inspection, which is as follows: Goshen County, Platte County, and these locations in Laramie County: Albin Elevator, Albin; Farmers Coop, Burns; Carpenter Elevator, Carpenter; Pillsbury Company, Egbert; and Pine Bluffs Feed and Grain, Pine Bluffs.

Interested parties, including Gibson City, Indianapolis, and Wyoming, are hereby given opportunity to apply for official agency designation to provide the official services in the geographic area, as specified above, under the provisions of section 7(f) of the Act and § 800.196(d) of the regulations issued thereunder. Designation in each specified geographic area is for the period beginning April 1, 1988, and ending March 31, 1991. Parties wishing to apply for designation should contact the Review Branch, Compliance Division, at the address listed above for forms and information.

Applications and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Pub. L. 94-582, 90 Stat. 2867, as amended, 7 U.S.C. 71 *et seq.*)

Date: September 16, 1987.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 87-22486 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-EN-M



# Request for Comments on Designation Applicants in the Kankakee, IL, Geographic Area

**AGENCY:** Federal Grain Inspection Service (Service), USDA.

**ACTION:** Notice.

**SUMMARY:** This notice requests comments from interested parties on the applicants for official agency designation in the Kankakee, Illinois, geographic area.

**DATE:** Comments to be postmarked on or before November 16, 1987.

**ADDRESS:** Comments must be submitted in writing to Lewis Lebakken, Jr., Information Resources Staff, FGIS, USDA, Room 1661 South Building, P.O. Box 96454, Washington, DC 20090-6454.

Telemail users may respond to [IRSTAFF/FGIS/USDA] telemail.

Telex users may respond as follows:

To: Lewis Lebakken

TLX:7607351, ANS:FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

**FOR FURTHER INFORMATION CONTACT:** Lewis Lebakken, Jr., telephone (202) 382-1738.

**SUPPLEMENTARY INFORMATION:** This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512-1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

The Service announced the cancellation of designation of Kankakee Grain Inspection Bureau, Inc., effective January 31, 1988, and requested applications for official agency designation to provide official services within a specified geographic area in the August 3, 1987, *Federal Register* (52 FR 28739). Applications were to be postmarked by September 2, 1987. There were two applicants for designation in the Kankakee, Illinois, geographic area. Michael J. Fegan, Kankakee, Illinois, proposing to establish a new corporation with the name Kankakee Grain Inspection Bureau, Inc., applied for designation in the entire area available for assignment. Mark A. Beaupre, St. Anne, Illinois, proposing to do business as Illinois Valley Inspection, applied for designation in the entire area available for assignment.

This notice provides interested persons the opportunity to present their comments concerning the designation of the applicants. Commenters are

encouraged to submit reasons for support or objection to this designation action and include pertinent data to support their views and comments. All comments must be submitted to the Information Resources Staff, Resources Management Division, at the above address.

Comments and other available information will be considered in making a final decision. Notice of the final decision will be published in the *Federal Register*, and the applicants will be informed of the decision in writing.

(Pub. L. 94-582, 90 Stat. 2867, as amended 7 U.S.C. 71 *et seq.*)

Date: September 16, 1987.

J.T. Abshier,

Director, Compliance Division.

[FR Doc. 87-22487 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-EN-M

## Food and Nutrition Service

### Food Stamp Program; Thrifty Food Plan

**AGENCY:** Food and Nutrition Service, USDA.

**ACTION:** General notice.

**SUMMARY:** The Department of Agriculture is updating the Thrifty Food Plan which determines the maximum amount of food stamps which participating households receive in the 48 States and DC. The Department is also updating the standard deduction and the maximum amounts for the excess shelter deduction available to certain households. These adjustments, required by law, take into account changes in the cost of living.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Thomas O'Connor, Supervisor, State Management Section, Administration and Design Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302, (703) 756-3385. Copies of the Regulatory Impact Analysis, which is summarized in this preamble, are also available from Mr. O'Connor.

#### SUPPLEMENTARY INFORMATION:

##### Publication

State agencies must implement this action on October 1, 1987, and need advance notice of the new amounts to meet the implementation deadline. Based on regulations published at 47 FR 46485-46487 (October 19, 1982) annual statutory adjustments to the Thrifty Food Plan and deductions are issued by General Notices published in the

*Federal Register* and not through rulemaking proceedings.

#### Classification

##### Executive Order 12291

This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512-1. The Department considers it a major action because it will increase the Food Stamp Program's cost by more than \$100 million. It will not result in a major increase in costs or prices except to the Federal Government, nor will it affect competition, productivity, employment, investment, or innovation.

##### Executive Order 12372

The Food Stamp Program is listed in the Catalog of Federal Domestic Assistance under No. 10.551. For the reasons set forth in the Final rule related Notices(s) to 7 CFR Part 3015, Subpart V (Cite 48 FR 29115, June 24, 1983; or 48 FR 54317, December 1, 1983, as appropriate, and any subsequent notices that may apply), this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

#### Regulatory Flexibility Act

Anna Kondratas, Administrator of the Food and Nutrition Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. The action will increase the amount of money spent on food through food stamps. However, this money will be distributed among the nation's food vendors, so the effect on any one vendor will not be significant.

#### Paperwork Reduction Act

This action does not contain reporting or recordkeeping requirements subject to approval by the Office of Management and Budget (OMB).

#### Regulatory Impact Analysis

##### Need for Action

This action is required by sections 3(o) and 5(e) of the Food Stamp Act of 1977, as amended. Section 3(o) requires that the October 1, 1987 change in food stamp allotments be based upon the June 1987 cost of the Thrifty Food Plan for a family of four persons consisting of a man and woman ages 20-50 and children 6-8 and 9-11. Adjustments are made to take into account household size, economies of scale, and a requirement to round the final results down to the nearest dollar increments. Section 5(e), as amended by Pub. L. 100-



77, requires that the standard deduction be adjusted on October 1, 1987 to the nearest lower dollar increments to reflect certain changes for the twelve months ending June 30, 1987.

Section 5(e), as amended by Pub. L. 100-77, also requires that the maximum amounts for the maximum excess shelter expense deduction be increased to \$164 for households in the 48 States and DC, whose certification periods begin on or after October 1, 1987. Households whose certification periods begin before October 1, 1987 will have their shelter deductions adjusted on October 1, 1987 to the nearest lower dollar increments to reflect certain changes for the twelve months ending June 30, 1987. (This reflects the statutory provisions existing prior to the amendments made by Pub. L. 100-77.) When these households are recertified on or after October 1, 1987, they will have their maximum excess shelter expense deduction increased to \$164 in the 48 States and DC. There would be comparable increases for households in Alaska, Hawaii, Guam, and the Virgin Islands.

#### Benefits

This action increases maximum food stamp allotments and deductions based on the rising cost of living.

#### Costs

It is estimated that this action will increase the cost of the Food Stamp Program by approximately \$1,210 million in Fiscal Year 1988.

#### Background

##### Thrift Food Plan (TFP)

The TFP is a plan for the consumption of foods of different types (food groups) that families might use to provide nutritious meals and snacks for family members. The plan suggests amounts of food for men, women, and children of different ages, and it meets all dietary standards. The cost of the TFP is

adjusted annually to reflect changes in the costs of the food groups.

The TFP also constitutes the basis for allotments for food stamp households. As such, the cost of the TFP is the maximum benefit level payable to a household of a particular size. The maximum benefit is paid to households which have no net income. For households which have some income, their allotment is determined by reducing the TFP for their household size by 30 percent of the household's net income.

The cost of the TFP is adjusted periodically to reflect changes in cost levels. Section 3(o) of the Food Stamp Act of 1977, as amended, provides that the next adjustment will take place on October 1, 1987, based upon June 1987 TFP costs for a family of four persons consisting of a man and woman ages 20-50 and children 6-8 and 9-11. In June 1987, this TFP value was \$290.40 in the 48 States and DC. June 1987 TFPs and allotments for Alaska, Hawaii, Guam, and the Virgin Islands will be published in a separate Notice in the **Federal Register**.

To obtain the maximum food stamp benefit for each household size, the TFP costs for the four-person household were divided by four, multiplied by the appropriate household size and economy of scale factor, and the final result was rounded down to the nearest dollar.

The following table shows the new allotments for the 48 States and DC.

THRIFTY FOOD PLAN AMOUNTS <sup>1</sup>—  
OCTOBER 1987, AS ADJUSTED

Household size	48 States and District of Columbia
1 .....	\$87
2 .....	159
3 .....	228
4 .....	290

#### STANDARD DEDUCTIONS FOR ALL HOUSEHOLDS

	Previous deductions (Effective 10-1-86)	New unrounded Nos. (10-1-87)	Deductions effective 10/1/87
48 States and DC.....	\$99	\$102.62	\$102
Alaska.....	169	175.04	175
Hawaii.....	140	144.88	144
Guam.....	198	205.22	205
Virgin Islands.....	87	90.53	90

THRIFTY FOOD PLAN AMOUNTS <sup>1</sup>—OCTOBER 1987, AS ADJUSTED—Continued

Household size	48 States and District of Columbia
5 .....	344
6 .....	413
7 .....	457
8 .....	522
Each additional member .....	+65

<sup>1</sup> Adjusted to reflect the cost of food in June, adjustments for each household size, economies of scale, and rounding.

#### Deductions

Food stamp benefits are calculated on the basis of an individual household's net income. Deductions serve to lower household net income. The standard deduction is available to all households. The excess shelter expense deduction is available to those with extremely high shelter costs. There is a maximum amount for the excess shelter deduction for households with no elderly members.

#### Adjustment of the Standard Deduction

Section 5(e) of the Food Stamp Act of 1977, as amended, provides that in computing household income, households shall be allowed a standard deduction. The Act also requires that these deductions be adjusted periodically. These deductions were last adjusted effective October 1, 1986. Pub. L. 100-77 provides that the adjustment in the level of the standard deduction shall take into account changes in the Consumer Price Index for All Urban Consumers (CPI-U) published by the Bureau of Labor Statistics (BLS) for items other than food. The adjustments are, by law, rounded to the nearest lower dollar. The following table shows the deductions resulting from the last adjustment, the unrounded result of updating this adjustment, and the new deduction amounts that go into effect on October 1, 1987.



*Adjustment of the Shelter Deduction*

Section 5(e) of the Food Stamp Act of 1977, as amended, also provides that in computing household income, households shall be allowed a deduction for certain excess shelter expenses. There is a maximum amount for the excess shelter deduction, unless the household has an elderly or disabled member, in which case there is no maximum. Pub. L. 100-77 provides new amounts for the maximum excess shelter expense deductions. According to that statute, these amounts will be phased-in as households' certification periods become effective on or after

October 1, 1987. These amounts are \$164 a month in the 48 States and DC, \$285 in Alaska, \$234 in Hawaii, \$199 in Guam, and \$121 in the Virgin Islands. The statutory provisions existing prior to the amendments made by Pub. L. 100-77 would remain in effect for households whose certification periods begin before October 1, 1987, until the household is recertified. Under that prior existing statutory provision, the maximum amount for the excess shelter expense deduction is adjusted annually each October 1, based on changes in the shelter (exclusive of homeowners' costs and maintenance and repair component of shelter costs), fuel and utilities

components of housing costs in the CPI-U published by BLS. Under Pub. L. 100-77, the maximum amount for the excess shelter expense deduction will be adjusted annually beginning October 1, 1988, based on changes in the shelter, fuel, and utilities components of the CPI-U.

The following table shows the shelter deductions resulting from the last adjustment, the shelter deductions for participating households whose certification periods begin before October 1, 1987, and the shelter deductions for new applicants and recertifications on or after October 1, 1987.

SHELTER DEDUCTIONS FOR HOUSEHOLDS WITHOUT ELDERLY OR DISABLED MEMBERS

	Shelter deductions (Effective 10/1/86)	Shelter deductions for households whose certification periods begin before 10/1/87	Shelter deductions for households whose certification periods begin on or after 10/1/87
48 States and DC.....			
Alaska.....	\$149	152	164
Hawaii.....	257	261	285
Guam.....	213	217	234
Virgin Islands.....	182	185	199
	111	112	121

*Dependent Care Deduction*

Section 5(e) of the Food Stamp Act of 1977, as amended, also provides that in computing household income, households shall be allowed a deduction for certain dependent care expenses. The maximum amount for the dependent care deduction is \$160 a month. This amount is not adjusted to take into account changes in the cost of living so it will not be affected by this action.

(91 Stat. 958 (7 U.S.C. 2011, et seq.))

Dated: September 25, 1987.

Suzanne S. Harris,

Deputy Assistant Secretary Food and Consumer Services.

[FR Doc. 87-22678 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-30-M

**Forest Service****Suitability Studies for Twelve Rivers Being Considered for National Wild and Scenic River Status**

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare an environmental impact statement.

**SUMMARY:** The Forest Service will prepare an environmental impact statement (EIS) for a proposal to study the suitability or non-suitability of twelve rivers on the Ozark National Forest in Arkansas for inclusion in the National Wild and Scenic Rivers System. The agency invites written comments and suggestions on the suitability of these twelve rivers. In addition, the agency gives notice of the environmental analysis and decisionmaking process that will occur on the proposal so that interested and affected people are aware of how they may participate and contribute to the final decision.

**DATE:** Comments concerning the suitability of these twelve rivers must be received by October 30, 1987.

**ADDRESS:** Submit written comments and suggestions concerning the suitability of these rivers to Lynn C. Neff, Forest Supervisor, or Jack Fortin, Forest Planner, Ozark-St. Francis National Forest, P.O. Box 1008, Russellville, Arkansas 72801.

**FOR FURTHER INFORMATION CONTACT:** Direct questions about the proposed action and environmental impact statement to Jack Fortin, Forest Planner,

Ozark-St. Francis National Forest, P.O. Box 1008, Russellville, Arkansas 72801, phone 501-968-2354.

**SUPPLEMENTARY INFORMATION:** The Ozark-St. Francis National Forests Land and Resource Management Plan, with amendments, determined the eligibility of segments of these 12 rivers, which were initially identified in the 1982 Nationwide Rivers Inventory, and recommended that suitability studies be conducted later. The planned EIS is in response to this direction.

The suitability study and EIS will consider the following rivers or river segments:

	Miles
Buffalo River (head to Forest boundary).....	15.8
East Fork of Little Buffalo River (head to Forest boundary).....	6.7
Illinois Bayou (Bayou Bluff to Forest boundary).....	4.4
Illinois Bayou, North Fork (entire length).....	22.6
Illinois Bayou, East Fork (entire length).....	14.9
Illinois Bayou, Middle Fork (entire length).....	21.4
Mulberry River (head to Forest boundary).....	56.0
Big Piney Creek (head to Forest boundary).....	45.2



Richland Creek (head to Forest boundary).....	22.7
Falling Water Creek (entire length).....	10.6
North Sylamore Creek (entire length).....	20.4
Cole Fork Branch (entire length).....	5.5

The area of consideration for each stream is a minimum of ¼ mile from each stream bank for the entire length of the stream within the Ozark National Forest boundary.

Donald B. Hurlbut, Forester, will be the interdisciplinary team leader.

Public participation will be especially important at several points during the analysis. The first point is the scoping process (40 CFR 1501.7). The Forest Service will be seeking information, comments, and assistance from Federal, State, and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. This input will be used in preparation of the draft environmental impact statement.

Informal public meetings will be held at Russellville and Little Rock, Arkansas, in the early stages of the analysis to inform the public of the analysis process and to provide for public participation and involvement. Additional meetings may be held in other locations. Federal, State, and local agencies, user groups, and other organizations who may be interested in the study will be invited to participate in scoping the issues that should be considered.

Richard E. Lyng, Secretary of Agriculture, is the responsible official.

The draft environmental impact statement is expected to be filed with the Environmental Protection Agency (EPA) and to be available for public review by September 1988. At that time the EPA will publish a notice of availability of the draft EIS in the *Federal Register*.

The comment period on this draft environmental impact statement will be 90 days from the date the Environmental Protection Agency's notice of availability appears in the *Federal Register*. It is very important that those interested in the suitability of these twelve rivers for inclusion in the National Wild and Scenic River System participate at this time. To be most helpful, comments on the draft EIS should be as specific as possible and may address the adequacy of the statement and the merits of the alternatives discussed (see The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3). In addition, Federal court decisions have established that

reviewers of draft EIS's must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978), and that environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement.

After the comment period ends on the draft EIS, the comments will be analyzed and considered by the Forest Service in preparing the final Environmental Impact Statement. The final environmental impact statement is scheduled to be completed by June 1989. The Secretary will consider the comments, responses, environmental consequences discussed in the EIS, and applicable laws, regulations, and policies in making his recommendation to the President regarding the suitability of these rivers for inclusion in the National Wild and Scenic Rivers System. The decision on inclusion of a river in the National Wild and Scenic Rivers System rests with the United States Congress.

Dated: September 23, 1987.

George M. Leonard,  
Associate Chief.

[FR Doc. 87-22621 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-11-M

## Soil Conservation Service

### Finding of No Significant Impact; Dry Creek Watershed, AL

**AGENCY:** Soil Conservation Service, USDA.

**ACTION:** Notice of a finding of no significant impact.

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dry Creek Watershed, Marengo County, Alabama.

**FOR FURTHER INFORMATION CONTACT:** Ernest V. Todd, State Conservationist, Soil Conservation Service, 665 Opelika Road, Auburn, Alabama, 36830, telephone (205) 821-8070.

**SUPPLEMENTARY INFORMATION:** The environmental assessment of this federally assisted action indicates that

the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Ernest V. Todd, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns a plan for reducing excessive erosion (45 tons per acre annually) on sloping cropland and reducing flooding on 3,840 acres of agricultural land. The planned works of improvement include land use conversion on 690 acres of marginal cropland, accelerated conservation land treatment on 1,580 acres of cropland, and installation of 8 flood-water retarding structures.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Ernest V. Todd.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the *Federal Register*.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904—Watershed Protection and Flood Prevention—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Dated: September 24, 1987.

Ernest V. Todd,

State Conservationist.

[FR Doc. 87-22602 Filed 9-30-87; 8:45 am]

BILLING CODE 3410-16-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Docket No. 17-87]

### Foreign-Trade Zone 50-Long Beach, California Request for Manufacturing for Daihatsu Off-Road Vehicle Assembly

The Port of Long Beach, grantee of FTZ 50, Long Beach, California, has requested manufacturing approval from the Foreign-Trade Zones Board to allow the use of zone procedures within FTZ 50 by Daihatsu America, Inc., for the assembly of off-road passenger vehicles. The request was filed on September 23, 1987.



Daihatsu is planning to assemble a small (1500 lbs., 30 horsepower) off-road "people-mover" passenger vehicle using a foreign-produced, motorized chassis which accounts for some 62 percent of the total material value of the vehicle. All remaining parts and material required to produce the cab and body, and to assemble the vehicle will be purchased domestically, such as fiberglass body panels, body electrical system, canopy, frame, soft top, windshield, seats and trim.

Zone procedures would allow Daihatsu to take advantage of the same duty rate available to importers of finished passenger vehicles. The duty rate on finished vehicles is 2.5 percent, whereas the rate on the motorized chassis is 25.0 percent (light truck rate). The application indicates that zone procedures will encourage Daihatsu to establish the operation in this country rather than import the finished vehicle, which would qualify for the 2.5 percent rate.

Comments on the proposed manufacturing operation are invited in writing from interested persons and organizations. They should be addressed to the Board's executive secretary at the address below and postmarked before October 30, 1987.

A copy of the application is available for public inspection at the office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Constitution Avenue NW., Washington, DC 20230.

Dated: September 28, 1987.

John J. Da Ponte, Jr.,  
Executive Secretary.

[FR Doc. 87-22677 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-DS-M

## International Trade Administration

[A-475-401]

### Antidumping; Certain Valves and Connections, of Brass, for Use in Fire Protection Systems From Italy

**AGENCY:** International Trade Administration, Import Administration, Commerce.

**ACTION:** Notice of final results of antidumping duty administrative review.

**SUMMARY:** On May 11, 1987, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain valves and connections, of brass, for use in fire protection systems from Italy. The review covers one manufacturer/exporter and one third-

country reseller of this merchandise to the United States and the period July 10, 1984 through February 28, 1986.

We gave interested parties the opportunity to comment on our preliminary results. In addition, the Department accepted supplementary information from the manufacturer on July 1, 1987. The final results of review are unchanged from those presented in the preliminary results.

**EFFECTIVE DATE:** October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Chip Hayes or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3601/5255.

#### SUPPLEMENTARY INFORMATION:

##### Background

On May 11, 1987, the Department of Commerce ("the Department") published in the *Federal Register* (52 FR 17616) the preliminary results of its administrative review of the antidumping duty order on certain valves and connections, of brass, for use in fire protection systems from Italy (50 FR 8354, March 1, 1985). We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

##### Scope of the Review

Imports covered by the review are shipments of certain valves and connections, of brass, suitable for use in interior fire protection systems from Italy. This merchandise consists of single and double clapper siamese fire department connections and pressure restricting valves, currently classifiable under items 680.1420 and 680.1440, respectively, of the Tariff Schedules of the United States Annotated ("TSUSA").

##### Analysis of Comments Received

We invited interested parties to comment on the preliminary results. The petitioner, Badger-Powhatan, submitted comments.

**Comment 1:** Petitioner requests that the Department determine whether liquidation of entries transhipped by Ganbrook, Ltd. has been suspended and estimated dumping duties have been collected by the Customs Service. Petitioner alleges that merchandise may have been incorrectly classified according to TSUSA classification and/or country of origin.

**Department's Position:** The Department has contacted Customs to verify that liquidation has been suspended on all entries by Ganbrook of merchandise within the scope of the order. Should Customs determine that

liquidation of entries was not suspended because entries were improperly classified, Customs will take appropriate corrective action.

**Comment 2:** Petitioner claims that cost of production data submitted by Giacomini, S.p.A. were unreliable and should be rejected in favor of the best information otherwise available for determining foreign market value. Specifically, petitioner claims that transfer prices for forged items from a related firm are suspect; that the transfer prices of stems from another supplier, possibly related to Giacomini, are suspect; that set-up time and idle time were not included in the cost of production; that labor costs were based on the minimum national hourly costs of labor rather than the firm's actual labor costs; and that depreciation and factory overhead were not included in Giacomini's cost data. Petitioner asserts that because of these deficiencies the respondent's data should be dismissed in favor of the petitioner's market research report as the best information available.

**Department's Position:** We disagree. After examining price and cost data from the respondent and its suppliers we have established that the data are reliable and adequate. In supplemental data submitted, the respondent explained that the price of forged components is established by the forging firm according to standard market prices, and that price is a function of weight. The respondent submitted invoices from the related forging firm and from other unrelated suppliers which showed that the per kilogram prices from the related firm were comparable to those of the unrelated suppliers. There is no evidence of the related firm selling to Giacomini at less than an arm's-length price. The invoices from the related firm reflect actual prices for forged items used in products exported to the U.S. Therefore we conclude that the respondent's transfer price data are reliable and accurate, and we consider these the most appropriate for use as the acquisition cost on a constructed value situation.

We have no evidence that the firm which supplies stems and the respondent are related within the meaning of section 733(e)(3) of the Tariff Act. Therefore we appropriately used the price from the supplier in calculating constructed value.

In supplemental data submitted to the Department, the respondent clarified that costs for setup and idle time, labor, and depreciation and factory overhead were included in its cost of production submission as elements of processing.



Processing costs were examined and verified during the fair value investigation and found to have included the elements in question. Labor costs were based on actual company wage rates. We therefore conclude that Giacomini's submitted cost data are complete, are a reflection of the firm's own costs, and are acceptable.

#### Final Results of the Review

We invited interested parties to comment on the preliminary results. Based on our analysis of the comments and data received, the final results of review are unchanged from those presented in the preliminary results. We determine that the following weighted-average margins exist for the period July 10, 1984 through February 28, 1986:

Manufacturer/Exporter	Margin (percent)
Rubinetterie A. Giacomini S.p.A.	0.00
Giacomini/Ganbrook Ltd.	85.54

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between United States price and foreign market value may vary from the percentage stated above for Giacomini/Ganbrook.

The Department will issue appraisement instructions directly to the Customs Service. Further, as provided by section 751(a)(1) of the Tariff Act, a cash deposit of estimated antidumping duties based on the above margins shall be required.

For any future entries of this merchandise from a new exporter not covered in this administrative review, whose first shipments occurred after February 28, 1986 and who is unrelated to either reviewed party, a cash deposit of 85.54 percent shall be required. These deposit requirements are effective for all shipments of certain Italian valves and connections, of brass, for use in fire protection systems, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)), and 19 CFR 353.53a.

**Gilbert B. Kaplan,**

*Deputy Assistant Secretary for Import Administration.*

Date: September 24, 1987.

[FR Doc. 87-22676 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-DS-M

[Docket Nos. 7104-01 and 7104-02]

#### Actions Affecting Export Privileges; Richard P. Boucher

##### Summary

Pursuant to the consent agreement reached by the Department of Commerce and Richard Paul Boucher in the above captioned proceeding, which agreement was approved by the Administrative Law Judge in his Recommended Decision and Order, Richard Paul Boucher, individually and doing business as Young Sales and Service, Inc., both with addresses at One Cotton Road, Nashua, New Hampshire 03063, is hereby denied all export privileges for a period of five (5) years from the date of this Order.

##### Order

On August 26, 1987, the Administrative Law Judge (ALJ) entered an order approving the consent proposal submitted by the parties in the above referenced matter. The Recommended Decision and Order was referred to me pursuant to the Export Administration Amendments Act of 1985, 50 U.S.C. App. 2412, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a), for final action.

I hereby modify the second sentence in paragraph two of the ALJ's Decision by deleting that sentence and inserting in lieu thereof the following:

Boucher admits that the facts as stated in the charging letter are true. I find that those allegations, admitted by Boucher to be true, constitute violations of the Export Administration Act of 1979, as amended by the Export Administration Amendments Act of 1985 and the Regulations promulgated thereunder. Boucher wishes to settle and dispose of all matters identified in the charging letter by entering into this consent agreement.

Paragraph II of the ALJ's Order is hereby modified by deleting that paragraph and inserting in lieu thereof the following:

II. All outstanding individual validated export licenses in which Boucher appears or participates, in any manner or capacity, are hereby revoked and shall be returned forthwith to the Office of Export Licensing for cancellation. Further, all of Boucher's privileges of participating, in any manner or capacity, in any special licensing procedure, including, but not limited to, distribution licenses, are hereby revoked.

Having examined the record and based on the facts adduced in this case, I affirm the Recommended Decision and Order of the ALJ as thus modified.

This constitutes final agency action in this matter.

Date: September 25, 1987.

**Paul Freedenberg,**

*Assistant Secretary for Trade Administration.*

#### Decision and Order Affirming Settlement Agreement

In the matter of Richard Paul Boucher, individually and doing business as Young Sales and Service, Inc. Respondent; Docket Numbers 7104-01 and 7104-02.

An administrative proceeding was initiated against Richard Paul Boucher, individually and doing business as Young Sales and Service, Inc., (hereinafter collectively referred to as "Boucher"), pursuant to section 13(c) of the Export Administration Act of 1979 (50 U.S.C.A. app. 2401-2420), as amended by the Export Administration Amendments Act of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) (the Act), and the Export Administration Regulations (currently codified at 15 CFR Parts 368-399 (1986)), (the Regulations). The Office of Export Enforcement issued a charging letter on April 23, 1987, alleging that between May 15, 1981 through May 8, 1982, Boucher violated §§ 387.45, 385.5 and 387.6 of the Regulations, in that:

(a) Between May 15, 1981 and May 8, 1982, Boucher exported U.S.-origin computer equipment from the United States through Canada to Switzerland, as well as directly from the United States to Switzerland, without the validated export licenses which Boucher knew of had reason to know were required by § 372.1 of the Regulations and that Boucher made false and misleading statements of material fact on export control documents;

Pursuant to 15 CFR 388.17, the Agency and Boucher, individually and doing business as Young Sales and Service, Inc. have agreed to and submitted a consent proposal to this office whereby Agency counsel and Respondent have agreed to settle this matter. Respondent Boucher admits that he violated the regulations as alleged in the charging letter and that this matter is being settled by a denial to Boucher of all export privileges of participating, directly or indirectly, in any manner or capacity, in any transaction involving the export of U.S.-origin commodities or technical data from the United States or abroad for a period of five years following the effective date of this Order.

I find that these terms are sufficient to achieve effective enforcement of the Act and the Regulations. Therefore, pursuant to the authority delegated to me by Part 388 of the Regulations,

*It is ordered:*

I. For a period of 5 years from the date that this Order becomes final,



Respondent Richard Paul Boucher, individually and doing business as Young Sales and Service, Inc., One Cotton Road, Nashua, New Hampshire 03060, any successors or assignees, officers, partners, representatives, agents and employees hereby are denied all privileges of participating directly or indirectly in any manner of capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the regulations.

II. All outstanding validated export licenses in which Boucher or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned to the Office of Export Licensing for cancellation.

III. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities or technical data which are subject to the Act and the Regulations.

IV. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

V. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts,

directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related party, or whereby any Respondent or related party may obtain any benefit therefrom or have interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related party denied export privileges; or (b) order, buy, receive, use sell deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VI. This Order shall become effective upon entry of the Secretary's action in this proceeding pursuant to the Export Administration Act (50 U.S.C.A. app. 2412(c)(1)).

Date: August 26, 1987.

Hugh J. Dolan

Administrative Law Judge.

[FR Doc. 87-22649 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-DT-M

#### [Docket Nos. 7689-01 and 7689-02]

#### Actions Affecting Export Privileges; Klaus Franz Josef Talleur

##### Summary

Pursuant to the consent agreement reached by the Department of Commerce and Klaus Franz Josef Talleur, in the above captioned proceeding, which agreement was approved by the Administrative Law Judge in his Recommended Decision and Order, Klaus Franz Josef Talleur, individually and doing business as Contacta Project Engineering and Consulting GmbH, both with addresses at Kleiststrasse 29, D-6024 Taunusstein 1, Federal Republic of Germany, is hereby denied all export privileges for two (2) years from the date of this Order. As authorized by § 388.16(c) of the Export Administration Regulations (15 CFR Parts 368-399(1986)) (Regulations), the denial period is suspended for one year from the date of this Order, provided Talleur has provided to the Department of Commerce any and all assistance requested by the Department in connection with any other administrative proceeding initiated by

the Department against any other party with respect to the matters identified in the Charging Letter. The denial period will be waived at the end of the one-year suspension period provided that during the period of suspension Talleur has: (1) Complied with the terms of this Order; and (2) committed no violation of the Act or any regulation, order or license issued under the Act.

##### Order

On August 26, 1987, the Administrative Law Judge (ALJ) issued his Recommended Decision and Order approving the consent proposal submitted by the parties in the above referenced matter. The Recommended Decision and Order was referred to me pursuant to the Export Administration Amendments Act of 1985, 50 U.S.C. App. 2412, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985) and 15 CFR 388.17(a) (the Act), for final action.

I hereby modify paragraph seven of the ALJ's Decision by deleting that paragraph and inserting in lieu thereof the following:

Talleur admits that the facts as stated in the charging letter are true. I find that these allegations, admitted by Talleur, constitute violations of the Act and the Regulations. Talleur wishes to settle and dispose of all matters identified in the charging letter by entering into this consent agreement.

Paragraph VI of the ALJ's Recommended Order is hereby modified by inserting at the end of that paragraph:

The provisions of Paragraph VI of this Order are also suspended during the one year suspension period.

Having examined the record and based on the facts adduced in this case, I affirm the Recommended Decision and Order of the ALJ as thus modified.

This constitutes final agency action in this matter.

Dated: September 25, 1987.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

#### Decision and Order Affirming Settlement Agreement

In the matter of Klaus Franz Josef Talleur Contacta Project Engineering and Consulting GmbH, respondent; Docket Nos. 7689-01 and 7689-02.

Appearance for Respondent: Klaus Franz Josef Talleur, Kleiststr. 29, D-6024 Taunusstein 1, Federal Republic of Germany.

Appearance for Agency: Thomas C. Barbour, Esq., Office of Deputy Chief Counsel, Department of Commerce, 14th & Constitution Ave., Washington, DC 20230.

A proceeding was initiated on July 11, 1986 against Klaus Franz Josef Talleur,



individually and doing business as Contacta Project Engineering and Consulting GmbH (hereinafter collectively referred to as "Talleur"), Kleiststrasse 29 D-6204 Taunusstein 1, Federal Republic of Germany, by the issuance of a charging letter by the Director, Office of Export Enforcement (OEE), International Trade Administration, United States Department of Commerce (the Agency). The Respondent was charged with violating the provisions of §§ 387.3, 387.5 and 387.6 of the Export Regulations, codified at 15 CFR Parts 368 through 399 (the Regulations), issued pursuant to 50 U.S.C.A. app. 2401-2402 (the Act).

In the charging letter, OEE alleged that Respondent violated the Act and the Regulations during the period from October 30, 1981 through March 25, 1982, by:

Conspiring with Anna Landau (a/k/a Anna Wellems, a/k/a Anna Wellems-Landau), Jeannette Wellems and Guenther Nachtrab to bring about acts that constitute violations of the Act and the Regulations, misrepresenting material facts on export control documents, and reexporting U.S.-origin commodities from the Federal Republic of Germany to Austria without the required reexport authorizations from the Department.

Implementing the conspiracy through involvement in the following overt acts: Talleur signed a Form ITA-6052P, Statement by Foreign Consignee in Support of Special License Application, which Nachtrab submitted to the Agency in support of Nachtrab's application for a distribution license. The Form ITA-6052P signed by the Respondent contained false and misleading statements of material fact concerning Talleur's prior business relationships with The Electronics Exchange, a company owned by Nachtrab, in violation of § 387.5 of the Regulations.

The Respondent also reexported four shipments of U.S.-origin goods, identified in Schedule A which is attached hereto and incorporated herein by this reference, from the Federal Republic of Germany to Landau and Wellems in Austria, without the required reexport authorization from the Agency, in violation of § 387.6 of the Regulations.

The Agency alleges that the Respondent committed a total of six violations of the Act and the Regulations, each of which involves U.S.-origin commodities controlled under Section 5 of the Act for national security reasons.

Pursuant to 15 CFR 388.17, the Agency and the Respondent have submitted a

timely consent proposal to this Office whereby Klaus Franz Josef Talleur, individually and doing business as Contacta Project Engineering and Consulting GmbH, has agreed to settle these matters by admitting the above allegations as true and agreeing to a denial to Talleur of all export privileges for a period of two years following the date of entry of this Order.

I find that these terms are sufficient to achieve effective enforcement of the Act and the Regulations. Therefore, pursuant to the authority delegated to me by Part 388 of the Regulations, it is ordered:

I. For a period of two years from the date that this Order becomes effective, Respondent Klaus Franz Josef Talleur, individually and doing business as Contacta Project Engineering and Consulting GmbH, Kleiststrasse 29, D-6204 Taunusstein, Federal Republic of Germany, any successors or assignees, officers, partners, representatives, agents and employees hereby are denied all privileges of participating directly or indirectly in any manner or capacity, in any transaction involving commodities or technical data exported from the United States in whole or in part, or to be exported, or that are otherwise subject to the regulations.

II. The two year denial period set forth above is hereby suspended for 1-year from the date on which this Order becomes final in accordance with § 388.16(c) of the regulations and will be remitted without further action at the end of that period provided Respondent has committed no further violations of the Act, the Regulations, or the final Order entered in this proceeding. During the one year suspension period, Respondent may participate in transactions involving the export of the U.S.-origin commodities or technical data from the United States or abroad in accordance with the requirements of the Act and regulations. The provisions of Paragraph III of this Order are also suspended during the 1-year period.

III. All outstanding validated export licenses in which Talleur or any related party appears or participates, in any manner or capacity, are hereby revoked and shall be returned to the Office of Export Licensing for cancellation.

IV. Without limitation of the generality of the foregoing, participation prohibited in any such transaction, either in the United States or abroad, shall include participation, directly or indirectly, in any manner or capacity:

(i) As a party or as a representative of a party to a validated export license application;

(ii) In preparing or filing any export license application or reexport

authorization, or any document to be submitted therewith;

(iii) In obtaining or using any validated or general export license or other export control document;

(iv) In carrying on negotiations with respect to, or in receiving, ordering, buying, selling, delivering, storing, using, or disposing of, in whole or in part, any commodities or technical data exported from the United States, or to be exported; and

(v) In the financing, forwarding, transporting, or other servicing of such commodities or technical data. Such denial of export privileges shall extend only to those commodities or technical data which are subject to the Act and the Regulations.

V. After notice and opportunity for comment, such denial may also be made applicable to any person, firm, corporation, or business organization with which any Respondent is now or hereafter may be related by affiliation, ownership, control, position of responsibility, or other connection in the conduct of export trade or related services.

VI. No person, firm, corporation, partnership, or other business organization, whether in the United States or elsewhere, without prior disclosure to and specific authorization from the Office of Export Administration, shall, with respect to U.S.-origin commodities and technical data, do any of the following acts, directly or indirectly, or carry on negotiations with respect thereto, in any manner or capacity, on behalf of or in any association with any Respondent or any related party, or whereby any Respondent or related party may obtain any benefit therefrom or have any interest or participation therein, directly or indirectly: (a) Apply for, obtain, transfer, or use any license, Shipper's Export Declaration, bill of lading, or other export control document relating to any export, reexport, transshipment, or diversion of any commodity or technical data exported in whole or in part, or to be exported by, to, or for any Respondent or related party denied export privileges; or (b) order, buy, receive, use, sell, deliver, store, dispose of, forward, transport, finance or otherwise service or participate in any export, reexport, transshipment or diversion of any commodity or technical data exported or to be exported from the United States.

VII. Respondent shall, to the extent he has not already done so, provide to the Agency any and all assistance requested by the Agency in connection with any other administrative proceeding



initiated by the Agency against any other party with respect to the matters identified in the charging letter.

VIII. This Order shall become effective upon entry of the Secretary's action in this proceeding pursuant to the Export Administration Act (50 U.S.C.A. app. 2412(c)(1)).

Date: August 26, 1987.

Hugh J. Dolan,

*Administrative Law Judge.*

[FR Doc. 87-22648 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-DT-M

### Short-Supply Review on Certain Pipe; Request for Comments

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Pipe and Tube Arrangement, Article 8 of the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, with respect to certain seamless hot-finished alloy steel pipe.

**DATE:** Comments must be submitted no later than October 13, 1987.

**ADDRESS:** Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue, N.W., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue N.W., Washington, DC 20230, (202) 377-0159.

**SUPPLEMENTARY INFORMATION:** Article 8 of the U.S.-EC Pipe and Tube Arrangement, Article 8 of the U.S.-Spain Arrangement Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provide that if the U.S. determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant

factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for seamless hot-finished alloy steel pipe meeting ASTM specification A335, grades P11, P22, P5 and P9, in wall thicknesses ranging from 0.203 to 1.312 inches and diameters ranging from 2 to 16 inches.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than October 13, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce, at the above address.

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

September 25, 1987.

[FR Doc. 87-22673 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-D5-M

### Short-Supply Review on Certain Steel Plate; Request for Comments

**AGENCY:** Import Administration, International Trade Administration, Commerce.

**ACTION:** Notice and Request for comments.

**SUMMARY:** The Department of Commerce hereby announces its review of a request for short-supply determination under Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products, with respect to certain steel plate used in the manufacture of pipe.

**DATE:** Comments must be submitted on or before October 13, 1987.

**ADDRESS:** Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue N.W., Washington, DC 20230.

**FOR FURTHER INFORMATION CONTACT:** Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and

Constitution Avenue N.W., Washington, DC 20230, (202) 377-0159.

**SUPPLEMENTARY INFORMATION:** Article 8 of the U.S.-EC Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. " \* \* \* determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product \* \* \*"

We have received a short-supply request for structural and API 5LX grades of steel plate, 0.25 to 1.50 inches in thickness, 72 inches or more in width, for use in producing large diameter pipe.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than October 13, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file.

Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Gilbert B. Kaplan,

*Deputy Assistant Secretary for Import Administration.*

September 25, 1987.

[FR Doc. 87-22674 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-DS-M

### National Oceanic and Atmospheric Administration

#### Meeting; Gulf of Mexico Fishery Management Council

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The Gulf of Mexico Fishery Management Council will convene a public meeting of its Billfish Advisory Panel at the Landmark Motor Hotel, 2601 Severn Avenue, Metairie, LA. The Panel will convene October 27, 1987, at 1 p.m., to review the provisions of the draft billfish plan, and will adjourn October 28 at noon.

For further information contact Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, 5401 West Kennedy Boulevard,



Suite 881, Tampa, FL 33609; telephone: (813) 228-2815.

Dated: September 22, 1987.

Richard H. Schaefer,

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 87-22638 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-22-M

### Meeting: New England Fishery Management Council

**AGENCY:** National Marine Fisheries Service, NOAA, Commerce.

The New England Fishery Management Council will convene a public meeting at the Ramada Inn, Mystic CT, to discuss reports of the groundfish, foreign fishing and scallop oversight committees; the recent public hearings on billfish and Atlantic salmon with pending final approval of the Atlantic Salmon Fishery Management Plan; amendments to the Magnuson Fishery Conservation and Management Act and a revised draft of the Uniform Standards, as well as other fishery management and administrative matters. The public meeting will convene October 7, 1987, at approximately 9 a.m. and will adjourn at approximately 5 p.m.

For further information, contact Douglas G. Marshall, Executive Director, New England Fishery Management Council, Suntaug Office Park, 5 Broadway, (Route One), Saugus, MA 01906; telephone: (617) 231-0422.

Dated: September 22, 1987.

Richard H. Schaefer,

*Acting Director, Office of Fisheries Conservation and Management, National Marine Fisheries Service.*

[FR Doc. 87-22639 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-22-M

### DEPARTMENT OF DEFENSE

#### Meeting: Defense Acquisition Regulatory Council

**AGENCIES:** Department of Defense (DoD), National Aeronautics and Space Administration (NASA).

**ACTION:** Notice of meetings.

**SUMMARY:** The Defense Acquisition Regulatory (DAR) Council will travel to Huntsville, Alabama, and San Francisco, California, during the week of October 26, 1987. The Council will conduct joint Government/Industry meetings at both locations and will discuss acquisition topics of mutual interest. The Council will be available

for questions on specific DAR cases and issues.

**DATES:** October 27, 1987 and October 29, 1987.

**FOR FURTHER INFORMATION CONTACT:** Mr. Charles W. Lloyd, Executive Secretary, DAR Council.

**SUPPLEMENTARY INFORMATION:** The U.S. Army Missile Command, RedStone Arsenal, Huntsville, Alabama 35899-5280, will host the Council's meeting on Tuesday, October 27, 1987, from 8 a.m. to 4:30 p.m. The point of contact for additional information is Randy Nevels, (205) 876-5373 (AV 746-5373).

The NASA/Ames Research Center will host the Council's meeting on Thursday, October 29, 1987, from 8 a.m. until 4:30 p.m., at the new Westin Hotel adjacent to the San Francisco airport. Advance registration for the meeting is required. Contact the conference coordinator, (415) 694-5800 on or before close of business on October 15, 1987 to register. The registration fee is \$25.00. Charles W. Lloyd,

*Executive Secretary, Defense Acquisition Regulatory Council.*

[FR Doc. 87-22589 Filed 9-30-87; 8:45 am]

BILLING CODE 3810-01-M

### Department of the Army

#### Open Meeting; Army Science Board

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

*Name of The Committee:* Army Science Board (ASB)

*Date of Meeting:* 18 October 1987

*Time:* 1600 Hours

*Place:* Fayetteville, North Carolina

*Agenda:* The Army Science Board's Ad Hoc Subgroup on Water Supply and Management on Western Installations will meet to draft the final report on briefings received by the subgroup during the past year. This meeting is open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Richard E. Entlich,

*Executive Secretary, Colonel, GS, Army Science Board.*

[FR Doc. 87-22647 Filed 9-30-87; 8:45 am]

BILLING CODE 3710-08-M

### National Security Agency

#### Privacy Act of 1974; Amended Record Systems

**AGENCY:** National Security Agency (NSA), DOD.

**ACTION:** Notice for public comment of amended record systems subject to the Privacy Act.

**SUMMARY:** The National Security Agency proposes to amend the systems notices for two systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a).

**DATE:** These system notices shall be amended as proposed without further notice on or before November 2, 1987, unless comments are received that would result in a contrary determination.

**ADDRESS:** Send any comments to Patricia Schuyler, Office of Policy, National Security Agency, Fort George G. Meade, MD, 20755-6000. Telephone: 301-688-6527.

**FOR FURTHER INFORMATION CONTACT:** Vito T Potenza, Assistant General Counsel (Litigation), Office of General Counsel, National Security Agency, Fort George G. Meade, MD, 20755-6000. Telephone 301-688-6054.

**SUPPLEMENTARY INFORMATION:** The National Security Agency Systems of Records Notices subject to the Privacy Act of 1974 have been published in the **Federal Register** on May 29, 1985, FR Doc. 85-10237 (50 FR 22584) (Compilation).

The specific changes to the record systems being amended are set forth below followed by the system notices, as amended, published in their entirety.

These proposed amendments are not within the purview of the provisions of 5 U.S.C. 552a(o) which requires the submission of new or altered systems reports.

Patricia H. Means,  
*OSD Federal Register Liaison Officer,  
Department of Defense.*

September 28, 1987.

### AMENDMENTS

#### GNSA 04

*System Name:*

NSA/CSS Cryptologic Reserve Mobilization Designee List (50 FR 22588) May 29, 1985

*Changes:*

*System Name:* Delete entry; substitute therefore: "NSA/CSS Military Reserve Personnel Data Base."



*System location:* After Decentralized Segments; substitute therefore: "Each staff, line, field element and military service as authorized and appropriate."

*Categories of individuals covered by the system:* After "duty military"; substitute therefore: "reserve personnel assigned to NSA mobilization billets, requesting to perform on-the-job training in NSA work centers, or scheduled to attend formal and resident courses of instruction under the auspices or sponsorship of NSA."

*Categories of records in the system:* Delete entry; substitute therefore: "File contains correspondence, papers, and forms relating to individual's service extracted from his/her military personnel records including but not limited to military service, enlistment or related service agreement/extension/orders, active duty records; duty status, reserve status; qualifications for active military duty assignments; clearance data; applications/nominations for assignments; pictures; military check-in/out sheets; military skill specialty evaluation data; active duty training; service record brief, military personnel utilization survey; correspondence courses, educational/academic records; application for ID; efficiency or fitness records; application/prior service enlistment documents; work experiences; professionalization documentation; achievement certificates, suggestions; personnel screening and evaluation records; acknowledgement of service requirements; temporary disability record; change of name; documents relating to promotion or non-selection, transfers, leave, pay entitlements, financial records, awards, health or medical records, reports of proceedings of physical fitness boards, birth certificates, citizenship statements and status; passport, questionnaire/records of security clearances, language capability, language proficiency questionnaire; flight record, aviator flight record, instrument certification papers; reduction in grade release, retirement, temporary duty, record of retirement points; correspondence and/or orders relating to dependents, service action, federal recognition orders, correspondence relating to badges, medals, and unit awards, including foreign decorations; correspondence/letters/administrative reprimands/censures/admonitions relating to apprehensions/confinement and discipline."

*Purpose(s):* Delete entry; substitute therefore: "To maintain current and accurate listings of reserve personnel designated to mobilize with the National Security Agency offered as nominees

for NSA Mobilization billets, requesting formal and resident training courses, or seeking on-the-job training in NSA work centers. To determine professional and technical qualifications of reservists to analyze their training needs and to ascertain the eligibility of reservists for promotions, awards, special duty assignments, and similar reasons."

*Storage:* Delete entry; substitute therefore: "Computer magnetic tapes, discs, electronic files, other automated storage media, computer listings and other paper records."

*Retrievability:* Delete entry; substitute therefore: "By name, social security numbers, mobilization billet, courses of training, and other professional qualifications."

*Retention and Disposal:* In second sentence after "They are reviewed," delete remainder of sentence and add: "periodically and updated at least annually for changes and correction."

*Record Sources Categories:* Delete entry; substitute therefore: "Individual reservists and service reserve personnel files."

#### **GNSA 09**

##### *System Name:*

NSA/CSS Personnel File (50 FR 22592)  
May 29, 1985

##### *Change:*

*Categories of records in the system:*  
After "letters of reprimand," delete "employee record card."

#### **GNSA 04**

##### **SYSTEM NAME:**

NSA/CSS Military Reserve Personnel Data Base.

##### **SYSTEM LOCATION:**

Primary System-National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755-6000.

Decentralized Segments-Each staff, line, field element and military service as authorized and appropriate.

##### **CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Inactive duty military reserve personnel assigned to NSA mobilization billets, requesting to perform on-the-job training in NSA work centers, or scheduled to attend formal and resident courses of instruction under the auspices or sponsorship of NSA.

##### **CATEGORIES OF RECORDS IN THE SYSTEM:**

File contains correspondence, papers, and forms relating to individual's service extracted from his/her military personnel records including but not limited to military service, enlistment or

related service agreement/extension/orders, active duty records; duty status, reserve status; qualifications for active military duty assignments; clearance data; applications/nominations for assignments; pictures; military check-in/out sheets; military skill specialty evaluation data; active duty training; service record brief, military personnel utilization survey; correspondence courses, educational/academic records; application for ID; efficiency or fitness records; application/prior service enlistment documents; work experiences; professionalization documentation; achievement certificates, suggestions; personnel screening and evaluation records; acknowledgement of service requirements; temporary disability record; change of name; documents relating to promotion or non-selection, transfers, leave, pay entitlements, financial records, awards, health or medical records, reports of proceedings of physical fitness boards, birth certificates, citizenship statements and status; passport, questionnaire/records of security clearances, language capability, language proficiency questionnaire; flight record, aviator flight record, instrument certification papers; reduction in grade release, retirement, temporary duty, record of retirement points; correspondence and/or orders relating to dependents, service action, federal recognition orders, correspondence relating to badges, medals, and unit awards, including foreign decorations; correspondence/letters/administrative reprimands/censures/admonitions relating to apprehensions/confinement and discipline."

##### **AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

National Security Agency Act of 1959, 50 U.S.C. section 402 note (Pub. L. 86-36); and Title 10 U.S.C.

##### **PURPOSE(S):**

To maintain current and accurate listings of reserve personnel designated to mobilize with the National Security Agency, offered as nominees for NSA Mobilization billets, requesting formal and resident training courses, or seeking on-the-job training in NSA work centers. To determine professional and technical qualifications of reservists to analyze their training needs and to ascertain the eligibility of reservists for promotions, awards, special duty assignments, and similar reasons.



**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

See "Blanket Routine Uses" at the beginning of NSA's listing of the record system notices.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Computer magnetic tapes, discs, electronic files, other automated storage media, computer listings and other paper records

**RETRIEVABILITY:**

By name, social security numbers, mobilization billet, courses of training, and other professional qualifications.

**SAFEGUARDS:**

Secure limited access facilities and within those facilities lockable containers. Records are accessible only to authorized personnel.

**RETENTION AND DISPOSAL:**

Records are permanent. They are reviewed periodically and updated at least annually for changes and correction. Superseded records are destroyed when no longer useful for reference purposes.

**SYSTEM MANAGER(S) AND ADDRESS:**

Director, NSA.

**NOTIFICATION PROCEDURE:**

Requests from individuals for notification shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, FT. George G. Meade, Md. 20755-6000.

**RECORD ACCESS PROCEDURE:**

Requests from individuals for access shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, FT. George G. Meade Md. 20755-6000

**CONTESTING RECORD PROCEDURES:**

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755-6000.

**RECORD SOURCE CATEGORIES:**

Individual reservists and service reserve personnel files.

**EXEMPTIONS CLAIMED FOR THE SYSTEM:**

Individual records in this file may be exempt pursuant to 5 U.S.C. section 552a(k)(1) and (k)(5). For additional

information see agency rules contained in 32 CFR Part 299a.

**GNSA09**

**SYSTEM NAME:**

NSA/CSS Personnel file.

**SYSTEM LOCATION:**

Primary System-National Security Agency/Central Security Service, FT. George G. Meade, Md. 20755-6000.

Decentralized Segments-Each staff, line, contract and field element and supervisor as authorized and appropriate.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Civilian employees, personnel under contract, military assignees, dependents of NSA/CSS personnel assigned to field elements, individuals integrated into the cryptologic career development program, custodial and commercial services personnel.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

File contains personnel papers and forms including but not limited to applications, transcripts, correspondence, notices of personnel action, performance appraisals, personnel summaries, professionalization documentation and correspondence, training forms, temporary duty, letters of reprimand, special assignment documentation, letters of commendation, promotion documentation, field assignment preference, requests for transfers, permanent change of station, passport, transportation, official orders, awards, suggestions, pictures, complaints separation, retirement, time utilization scholarship/fellowship or other school appointments, military service, reserve status, military check in/out sheets, military orders, security appraisal, career battery and other test results, language capability, military personnel utilization survey, work experience, notes and memoranda on individual aspects of performance, productivity and suitability, information on individual eligibility to serve on various boards and committees, emergency loan records, other information relevant to personnel management, housing information where required.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

National Security Agency Act of 1959, 50 U.S.C. section 402 note (Pub. L. 86-36); 5 U.S.C. and certain implementing Office of Personnel Management regulations in the Federal Personnel Manual; 10 U.S.C. section 1124; 44 U.S.C. section 3101, and Executive Order 11222.

**PURPOSE(S):**

To support the personnel management program; personnel training and career development; personnel planning, staffing and counseling; administration and personnel supervision; workforce study and analysis, manpower requirements studies; emergency loan program; and training curricula planning and research.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

To gaining employers or to financial institutions when individual has applied for credit; to contractor employees to make determinations as noted in the purpose above; to hearing examiners; the judicial branch or to other gaining government organization as required and appropriate; biographical information may be provided to the White House as required in support of the Senior Cryptologic Executive Service awards program. See "Blanket Routine Uses" at the beginning of NSA's listing of the record system notices.

**POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**

**STORAGE:**

Paper records in file folders, file cards, machine-readable cards, computer printouts, computer magnetic tapes, disks and other computer storage media, and microfilm.

**RETRIEVABILITY:**

By name, social security number and other items of relevant information.

**SAFEGUARDS:**

For paper, computer printouts and microfilm-Secure limited access facilities within those facilities secure limited access rooms and within those rooms lockable containers. Access to information is limited to those individuals authorized and responsible for personnel management or supervision. For records stored on magnetic tape, disk or other computer storage media within the computer processing area-additional secure limited access facilities, specific processing requests accepted from authorized persons only, specific authority to access stored records and delivery granted to authorized persons only. Where data elements are derived from the Personnel File, remote terminal inhibitions are in force with respect to access to complete file or data relating to persons not assigned to requesting organization using a remote terminal. Remote terminals are secured, are



available to authorized persons only, and certain password and other identifying information available to authorized users only is required.

#### RETENTION AND DISPOSAL:

**Primary System**—Those forms, notices, reports and memoranda considered to be of permanent value or required by law or regulation to be preserved are retained for the period of employment or assignment and then forwarded to the gaining organization or retained indefinitely. If the action is separation or retirement, these items are forwarded to the Office of Personnel Management or retired to the Federal Records Center at St. Louis as appropriate. Those items considered to be relevant for a temporary period only are retained for that period and either transferred with the employee or assignee or destroyed either when they are no longer relevant or at time of separation or retirement. Computerized portion is purged and updated as appropriate. Personnel summary, training, testing and past activity segments retained permanently. All other portions deleted at end of tenure.

**Decentralized System**—Files are transferred to gaining organization or destroyed upon separation as appropriate. Computer listings of personnel assigned to an organization are destroyed upon receipt of updated listings.

#### SYSTEM MANAGER(S) AND ADDRESS:

Director, NSA.

#### NOTIFICATION PROCEDURE:

Requests from individuals for notification shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755-6000.

#### RECORD ACCESS PROCEDURE:

Requests from individuals for access shall be in writing addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755-6000.

#### CONTESTING RECORD PROCEDURES:

The NSA/CSS rules for contesting contents and appealing initial determinations may be obtained by written request addressed to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, Md. 20755-6000.

#### RECORD SOURCES CATEGORIES:

Forms used to collect and process individual for employment, access or assignment, forms and memoranda used to request personnel actions, training

awards, professionalization, transfers, promotion, organization and supervisor reports and requests, educational institutions, references, Office of Personnel Management and other governmental entities as appropriate, and other sources as appropriate and required.

#### EXEMPTIONS CLAIMED FOR THE SYSTEM:

Individual records in this file may be exempt pursuant to 5 U.S.C. section 552a (k)(1), (k)(4), (k)(5), and (k)(6). For additional information see agency rules contained in 32 CFR Part 299a.

[FR Doc. 87-22694 Filed 9-30-87; 8:45 am]

BILLING CODE 3810-01-M

## DEPARTMENT OF ENERGY

### Economic Regulatory Administration

[ERA Docket No. 87-47-NG]

#### Application To Import Natural Gas From Canada; Victoria Gas Corp.

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of application for blanket authorization to import natural gas from Canada.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on August 31, 1987, of an application filed by Victoria Gas Corporation (Victoria) for blanket authorization to import Canadian natural gas for short-term and spot market sales in the United States. Authorization is requested to import up to 100 MMcf of natural gas per day and maximum of 72 Bcf of natural gas over a two-year term beginning on the date of the first delivery. The gas would be sold on a short-term or spot basis to U.S. purchasers, including pipelines, local distribution companies, electric utilities, and commercial and industrial end-users. Victoria, a privately owned corporation of Houston, Texas, would import gas for its own account or act as agent for U.S. purchasers as well as Canadian suppliers. The specific terms of each import and sale would be negotiated on an individual basis, including price and volumes. Victoria intends to utilize existing pipeline facilities for transportation of the volumes imported.

**DATE:** Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than November 2, 1987.

#### FOR FURTHER INFORMATION CONTACT:

Larine A. Moore, Natural Gas Division, Economic Regulatory Administration,

Forrestal Building, Room GA-076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478  
Diane Stubbs, Natural Gas and Mineral Leasing, Office of the General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667

**SUPPLEMENTARY INFORMATION:** The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive. Parties opposing the arrangement bear the burden of overcoming this assertion. All parties should be aware that if the ERA approves this requested blanket import, it may designate a total amount of authorized volumes for the term rather than a daily or annual limit, in order to provide the applicant with maximum flexibility of operation.

#### Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA-076, RG-23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. They must be filed no later than 4:30 p.m. e.d.t., November 2, 1987.

The Administrator intends to develop a decisional record on the application



through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trial-type hearing. A request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Victoria's application is available for inspection and copying in the Natural Gas Division Docket Room, GA-076-A at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 23, 1987.

Constance L. Buckley,  
*Director, Natural Gas Division, Office of  
Fuels Programs, Economic Regulatory  
Administration.*

[FR Doc. 87-22644 Filed 9-30-87; 8:45 am]

BILLING CODE 6450-01-M

#### [ERA Docket No. 86-61-NG]

#### Order Granting Authorization To Import Natural Gas; Minnegasco, Inc.

**AGENCY:** Economic regulatory Administration, Department of Energy.

**ACTION:** Notice of order granting authorization to import natural gas.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Minnegasco, Inc., A Company of Diversified Energies,

Inc. (Minnegasco), an authorization to import Canadian natural gas. The import authorization allows Minnegasco to import up to 160,000 Mcf per day of Canadian natural gas over a ten-year term, beginning November 1, 1987, or such later date as the necessary regulatory approvals and required facilities are made available to Minnegasco. Minnegasco, a local distribution company, proposes to purchase the gas on a direct sale basis from TransCanada PipeLines Limited and to import up to 50,000 Mcf per day on a firm basis, and up to 110,000 Mcf per day on an interruptible basis to the extent that such volumes are both needed and available for Minnegasco's Minneapolis, Minnesota, service area.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 22, 1987.

Constance L. Buckley,  
*Director, Natural Gas Division, Office of  
Fuels Programs, Economic Regulatory  
Administration.*

[FR Doc. 87-22645 Filed 9-30-87; 8:45 am]

BILLING CODE 6450-01-M

#### [ERA Docket No. 87-33-NG]

#### Order Granting Blanket Authorization To Import Natural Gas; Semco Energy Services, Inc.

**AGENCY:** Economic Regulatory Administration, DOE.

**ACTION:** Notice of order granting blanket authorization to import natural gas.

**SUMMARY:** The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting Semco Energy Services, Inc. (SEMCO), blanket authorization to import natural gas. The order issued in ERA Docket No. 87-33-NG authorizes SEMCO to import up to 400 Bcf of natural gas over a two-year period beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, September 23, 1987.

Constance L. Buckley,  
*Director, Natural Gas Division, Office of  
Fuels Programs, Economic Regulatory  
Administration.*

[FR Doc. 87-22698 Filed 9-30-87; 8:45 am]

BILLING CODE 6450-01-M

#### Federal Energy Regulatory Commission

[Docket Nos. ER87-639-000 et al.]

#### Electric Rate and Corporate Regulation Filings; Gulf States Utilities Co. et al.

Take notice that the following filings have been made with the Commission:

##### 1. Gulf States Utilities Company

[Docket No. ER87-639-000]

September 23, 1987.

Take notice that on September 10, 1987, Gulf States Utilities Company tendered for filing, pursuant to Cajun Electric Power Cooperative, Inc.'s (CAJUN's) breach of the terms of Service Schedule CTOC, a Notice of Cancellation of Service Schedule CTOC. Pursuant to § 35.15 of the Commission's regulations, Gulf States requests an order terminating Service Schedule CTOC as of November 1, 1985, consistent with CAJUN's failure in November, 1985, to satisfy Gulf States' demand for payment of all past due amounts under Service Schedule CTOC.

Copies of this filing have been served upon each person designated on the official service list in this proceeding.

*Comment date:* October 7, 1987, in accordance with Standard Paragraph E at the end of this notice.

##### 2. Southern California Edison Company

[Docket No. ER87-659-000]

September 25, 1987.

Take notice that on September 18, 1987, Southern California Edison Company (Edison) tendered for filing pursuant to § 35.15 of the Federal Energy Regulatory Commission's (Commission) Regulations (18 CFR 35.15) under the Federal Power Act a Notice of Cancellation of Rate Schedule FERC No. 25.

Copies of this filing were served upon each person designated on the official service list in this proceeding.

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.



**3. Idaho Power Company**

[Docket No. ES87-40-000]

September 25, 1987.

Take notice that on September 17, 1987, Idaho Power Company filed an application with the Federal Energy Regulatory Commission seeking authority, pursuant to Section 204 of the Federal Power Act, to issue not more than \$150,000,000 of short-term debt or other evidence of indebtedness on or before December 31, 1988, with a final maturity no later than December 31, 1989.

*Comment date:* October 15, 1987, in accordance with Standard Paragraph E at the end of this notice.

**4. Boston Edison Company**

[Docket No. ER87-662-000]

September 25, 1987.

Take notice that on September 25, 1987, Boston Edison Company (Boston Edison) tendered for filing its voluntary compliance with Order No. 475, Docket No. RM87-4-000, dated June 26, 1987. These revisions are made pursuant to the abbreviated filing requirements and formula adjustment put forth in Order No. 475. The adjustments reflect the reduction in the federal income tax rate from 46% to 34%, pursuant to the Tax Reform Act of 1986.

Tendered for filing are three revised rate sheets:

- (a) The Second Revised Sheet No. 19 of FERC Electric Tariff, Original Volume No. IV, for Firm Transmission Service;
- (b) The Third Revised Sheet No. 2 of FPC Rate Schedule No. 46, for 14/24 kV Subtransmission Service to New England Power Company for its Quincy-Weymouth Service Area;
- (c) The Eleventh Revised Sheet No. 1 of Exhibit B of FPC Electric Tariff Original Volume I, Contract Demand Service for Resale.

Boston Edison asks that the rate schedule changes be made effective as of July 1, 1987.

The affected customers for each rate are:

- (a) Firm Transmission Service:  
New England Power Company  
Town of Norwood, Massachusetts  
Town of Concord, Massachusetts  
Town of Wellesley, Massachusetts  
Massachusetts Municipal Wholesale Electric Company, Agent for the  
Towns of Belmont, Braintree, Hingham, Hull and Reading.
  - (b) 14/24 kV Subtransmission Service to the Quincy-Weymouth Area: New England Power Company
  - (c) Contract Demand Service for Resale  
Town of Reading, Massachusetts
- Boston Edison states that this filing has been posted and that copies of the

filing have been served upon the affected customers and the Massachusetts Department of Public Utilities.

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

**5. Idaho Power Company**

[Docket No. ER87-661-000]

September 25, 1987.

Take notice that on September 18, 1987, Idaho Power Company tendered for filing in compliance with the Federal Energy Regulatory Commission's Order of October 7, 1978, a summary of sales made under the company's 1st Revised FERC Electric Tariff, Volume No. 1 (Supersedes Original Volume No. 1) during July 1987, along with cost justification for the rate charged. The filing includes the following supplements:

- Pacific Power & Light Co.—Supplement No. 21
- Utah Power & Light Co.—Supplement No. 68
- Montana Power & Light Co.—Supplement No. 53
- Washington Water Power Co.—Supplement No. 51
- Sierra Pacific Power Co.—Supplement No. 66
- Puget Sound Power & Light Co.—Supplement No. 30
- Pacific Gas & Electric Co.—Supplement No. 26
- Sacramento Municipal Utility District—Supplement No. 4
- Portland General Electric Co.—Supplement No. 55

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

**6. Northern States Power Company (Wisconsin)**

[Docket No. ER87-660-000]

September 25, 1987.

Take notice that on September 18, 1987, Northern States Power Company a Wisconsin corporation (NSPW), tendered for filing a new wholesale electric service agreement, dated July 1, 1987, between NSPW and the City of New Richmond, Wisconsin (City). NSPW states that it currently serves the City under a wholesale service agreement dated October 8, 1973, which agreement will be terminated upon the effective date of the July 1, 1987 agreement. NSPW also states that the City has assigned both the October 8, 1973 agreement and the July 1, 1987 agreement to Wisconsin Public Power Inc. SYSTEM (SYSTEM) and that the SYSTEM has consented to the termination of the 1973 agreement and

accepted the assignment of the 1987 agreement. NSPW further states that this filing does not propose any changes in rates currently in effect for NSPW's wholesale service to the City.

Finally, NSPW has requested that the new agreement be permitted to become effective on the date on which certain new substation facilities being constructed by the City are placed in service, which date is estimated to be on or about January 1, 1988.

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

**7. Montana Power Company**

[Docket No. EC87-15-000]

September 25, 1987.

Take notice that on September 18, 1987, Montana Power Company tendered for filing an amendment to its application seeking authority to acquire securities of other public utilities as part of a planned program of corporate investments. Montana Power states that it amends its application so as to have a one (1) percent limitation, rather than a five (5) percent limitation on the amount of stock or funded debt outstanding of any other public utility that Montana Power may acquire pursuant to this application.

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

**8. Northern Indiana Public Service Company**

[Docket No. EC87-25-000]

September 25, 1987.

Take notice that on September 18, 1987, Northern Indiana Public Service Company (Northern Indiana) tendered for filing an application for an order granting authorization under section 203 of the Federal Power Act to permit a planned corporate restructuring to go forward.

Northern Indiana conducts an electric generation, transmission and distribution business and a gas transmission and distribution business in the northern one third of the State of Indiana. Under the proposed corporate restructuring, Northern Indiana would become a direct wholly owned subsidiary of a newly formed holding company, NIPSCO Industries, Inc., an Indiana corporation (Holding). Holding would own three companies which are currently subsidiaries of Northern Indiana. The restructuring is to be accomplished through a plan of share exchange under the Indiana Business Corporation Law.



Northern Indiana states that the corporate restructuring is consistent with the public interest.

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

## 9. Public Service Electric and Gas Company

[Docket No. EC87-664-000]

September 25, 1987.

Take notice that on September 21, 1987, Public Service Electric and Gas Company (PSE&G) tendered for filing an initial Rate Schedule to provide transmission service to Camden County Energy Recovery Associates (Camden). The Rate Schedule provides for a monthly transmission service charge of \$1.08 per kilowatt plus \$.00037 per kilowatthour for the delivery of the net electric power output of Camden's qualifying solid waste recovery facility to be located in the City of Camden, Camden County, New Jersey Central Power and Light Company.

PSE&G requests, with the customer's consent, a waiver of the Notice Requirements of § 35.3(a) of the Commission's Regulations so that the Rate Schedule can be submitted for filing at this time and PSE&G further requests that the filing be made effective within sixty (60) days of the date of this filing.

PSE&G states that a copy of this filing has been served by mail upon the customer and the New Jersey Board of Public Utilities.

*Comment date:* October 13, 1987, in accordance with Standard Paragraph E at the end of this notice.

## Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22714 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP87-335-001 et al.]

## Natural Gas Certificate Filings; Northwest Pipeline Corp. et al.

Take notice that the following filings have been made with the Commission:

### 1. Northwest Pipeline Corporation

[Docket No. CP87-335-001]

September 23, 1987.

Take notice that on September 16, 1987, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP87-335-001 an amendment to the pending application for a certificate of public convenience and necessity filed on April 30, 1987, in Docket No. CP87-335-000 pursuant to section 7(c) of the Natural Gas Act so as to reflect a revised facility design and an increase in the proposed level of firm transportation of natural gas for direct sale to Exxon Company U.S.A. (Exxon) for use during emergency shut-downs at Exxon's Black Canyon Dehydration Plant (referred to as the Dry Piney Dehydration Plant in Northwest's initial pleadings) and during facility malfunction at Mountain Fuel Resources, Inc.'s (MFR) Dry Piney Gas Conditioning Plant, both in Sublette County, Wyoming, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

By the pending application in Docket No. CP87-335-000, authorization is requested for the construction and operation of 4.53 miles of 6-inch buried pipeline, one meter station consisting of a 6-inch meter run, a 3-inch meter and a 2-inch meter, and miscellaneous facilities. It is explained that the proposed line would be constructed from the discharge side of Northwest's existing Big Piney compressor station and extend in a southwesterly direction to a point of interconnection with the proposed meter station located adjacent to Exxon's Black Canyon Dehydration Plant. Authorization is also requested for the firm transportation and delivery of up to 29,000 MMBtu per day through the proposed facilities to serve emergency shut down (ESD) requirements in Exxon's Black Canyon dehydration facility.

It is stated that Exxon notified Northwest that it wished to change the proposed pipeline diameter from 6-inch to 8-inch and to increase its maximum purchase volume from 29,000 to 50,000 MMBtu per day in order to provide additional safety and operational flexibility during ESD events. It is further stated that Exxon and Northwest entered into an amendment effective

August 20, 1987, to the ESD Agreement whereby Northwest agreed to increase the proposed line size and increase the proposed level of transportation and delivery of the direct sales gas.

It is maintained that under the terms of the amended ESD Agreement, Northwest now proposes to construct and operate 4.35 miles of 8-inch buried pipeline and a meter station consisting of one 6-inch meter run and one 3-inch meter run. It is stated that the location of these facilities would not change from that set forth in the original pleadings. Northwest states that the revised estimated cost of the proposed facilities would be \$797,940. Northwest further states that Exxon would reimburse Northwest for all costs associated with the construction of the proposed facilities.

In addition, it is maintained that under the terms of the amended ESD Agreement, Northwest now proposes to transport and deliver, on a firm basis, from its system supply up to 50,000 MMBtu per day of natural gas for direct sale to Exxon.

*Comment date:* October 8, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

### 2. Blue Dolphin Pipe Line Company

[Docket No. CP87-537-000]

September 25, 1987.

Take notice that on September 11, 1987, Blue Dolphin Pipe Line Company (BDPL), 11 Greenway Plaza, Suite 3100, Houston, Texas 77046, filed in Docket No. CP87-537-000 a request pursuant to Section 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 284.221) for authorization to transport natural gas on an interruptible basis for Apache Marketing, Inc., acting as shipper for an end-user in Brazoria County, Texas, under the certificate issued in Docket No. CP87-31-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

BDPL proposes to transport up to 8 MMcf on a peak day, 6 MMcf on an average day and 2,190 MMcf on an annual basis for Apache. It is stated that the gas would be transported approximately 40 miles from a subsea tap in the Galveston Area, Block 273, offshore Texas, to a meter at the Dow Chemical Company Plant A in Freeport, Brazoria County, Texas. It is asserted that BDPL filed an initial report on July 31, 1987, reporting that the service commenced on July 1, 1987, under the automatic authorization provisions of



the Commission's Regulations. BDPL states that no construction of facilities would be required to effect the transportation service. BDPL proposes to charge Apache a transportation rate of 6 cents per Mcf of gas redelivered. It is explained that the transportation service would have a primary term of 2 years with month-to-month extensions thereafter.

*Comment date:* November 9, 1987, in accordance with Standard Paragraph G at the end of this notice.

### 3. Eastern Shore Natural Gas Company

[Docket No. CP87-520-000]

September 25, 1987.

Take notice that on September 1, 1987, Eastern Shore Natural Gas Company (Eastern Shore), P. O. Box 615, Dover, Delaware 19903-0615, filed in Docket No. CP87-520-000 a request pursuant to §§ 157.205, 157.211(b) and 157.212(a) of the Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.212) for authorization to construct and operate four sales taps for two utilities and to operate a delivery point for one of these customers, under the certificate issued in Docket No. CP83-40-000, pursuant to the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Eastern Shore proposes to operate the existing delivery point for its existing customer, the Citizens Gas Division of

Chesapeake Utilities Corporation (Citizens Division) at Federalsburg, Maryland. It is stated that the volumes delivered would be within the certified entitlements of Citizens Division and that there would be minimal impact on Eastern Shore's peak day deliverability.

Eastern Shore proposes to construct and operate two additional sales taps for Citizens Division at Federalsburg Industrial Park, Maryland and at Naylor Mill Road in Wicomico County, Maryland. Eastern Shore further proposes to construct and operate two sales taps for another existing customer the Delaware Division of Chesapeake Utilities Corporation, near Bridgeville in Sussex County, Delaware, and at Salisbury Road in Kent County, Delaware. It is stated that the volumes to be delivered at these proposed delivery points would be within the certified entitlements of these customers and that there would be minimal impact to Eastern Shore's existing customers' annual and peak day deliveries.

*Comment date:* November 9, 1987, in accordance with Standard Paragraph G at the end of this notice.

### 4. K N Energy, Inc.

[Docket No. CP87-541-000]

September 25, 1987.

Take notice that on September 16, 1987, K N Energy, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado, 80215, filed in Docket No. CP87-541-000 a

request pursuant to §§ 157.205 and 157.211 of the Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate sales taps for the delivery of gas to end-users under the certificate authority granted in Docket Nos. CP83-140-000, CP83-140-001, and CP83-140-002 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant advises that the intended end-users are located in various counties within Kansas and Nebraska. Applicant states that the gas would be used to fuel irrigation equipment and to provide space heating for certain small commercial and residential structures. Peak day and annual deliveries at the proposed taps are estimated to be 208 Mcf and 6,140 Mcf, respectively (see attachment). Applicant states it does not expect such deliveries to have a significant impact on its total peak day and annual deliveries. The cost of installing the taps is estimated to be \$6,200, it is asserted. Finally, Applicant states that the taps are not prohibited by any of its existing tariffs and that the gas would be sold in accordance with the currently filed rate schedules authorized by the applicable state or local regulatory body having jurisdiction.

*Comment date:* November 9, 1987, in accordance with Standard Paragraph G at the end of this notice.

### EXHIBIT A

Customer	Location of tap	Approximate quantity to be sold (MCF)		End use of gas	Est. of cost facilities <sup>1</sup>
		Peak day	Annual		
Resident/Occupant 87-34, C.W. Kettlehut.	SE/4 Sec. 7-T1S-R3W, Republic Co., KS.	24	800	Irrigation.....	\$850
Resident/Occupant 87-35, Bob Husband.	SW/4 Sec. 7-T26S-R30W, Gray Co., KS.	26	920	Domestic & Irrigation..	850
Resident/Occupant 87-36, Ellen Kowalewski.	SW/4 Sec. 20-T9N-R16W, Buffalo Co., NE.	2	120	Domestic.....	850
Resident/Occupant 87-37, Myron Baumgart.	NE/4 Sec. 1-T20N-R2W, Platte Co., NE.	36	300	Small Commercial .....	1,150
Resident/Occupant 87-38, Omega Land Company.	NE/4 Sec. 17-T31N-R14W, Holt Co., NE.	120	4,000	Irrigation.....	2,500

<sup>1</sup> Customers reimburse to K N a portion of these costs through imposition of a connection charge which varies by state as follows: Kansas—\$250, Nebraska—\$400 Colorado—\$400, and Wyoming—\$500.

### 5. Mountain Fuel Resources, Inc.

[Docket No. CP87-530-000]

September 25, 1987.

Take notice that on September 8, 1987, Mountain Fuel Resources, Inc. (MFR), 79 South State Street, Salt Lake City, Utah, 84147, filed in Docket No. CP87-530-000 an application pursuant to sections 7(b)

and 7(c) of the Natural Gas Act (NGA) for permission and approval to (1) abandon one turbine compressor at its Coalville station in Summit County, Utah (Coalville compressor), (2) install the Coalville compressor at MFR's Coleman station to Storage Main Line No. 58, (3) use Coleman station and other facilities to transport and deliver

gas to Colorado Interstate Gas Company (CIG) and (4) flexibly use MFR's Nightingale-Kanda-Coleman compressor complex to (a) receive gas from and deliver gas to MFR's transmission system and (b) receive gas from and deliver gas to the transmission systems of CIG and Wyoming Interstate Company, Ltd. (WIC), all as more fully



set forth in the application which is on file with the Commission and open to public inspection.

MFR proposes to abandon its Coalville compressor and relocate it at its Coleman station in order to more efficiently use this existing compressor and improve system deliverability and reliability. MFR also proposes to construct and operate a 20-inch diameter, 750-foot tie-line to connect Coleman station with MFR's Storage Main Line No. 58. This tie-line will permit MFR to use Coleman station to compress gas into its transmission system and increase deliverability to its Clay Basin Storage Field, it is stated.

MFR further proposes to use a soon-to-be installed 12 inch diameter, 3,500-foot tie-line, which will connect the Coleman and Kanda stations and will be constructed as a facility exempt from Commission jurisdiction under 18 CFR 284.3(c), to transport gas other than only under section 311 of the Natural Gas Policy Act of 1978 (NGPA). MFR alleges that this authority is needed to provide it with the flexibility to utilize Coleman station to compress both NGPA section 311 and NGA section 7(c) certificated volumes.

Finally, MFR requests authority to flexibly use its Nightingale-Kanda-Coleman compressor complex to (a) receive gas from and deliver gas to its transmission system and (b) receive gas from and deliver gas to the transmission systems of CIG and WIC. MFR explains that this operational flexibility will allow MFR to improve its ability to meet future demands for sales, transportation and storage services.

MFR estimates the cost to (a) retire, dismantle and remove the Coalville compressor, (b) reinstall the Coalville compressor at Coleman Station and (c) construct and operate the Coleman Station-to-Storage Main Line No. 58 tie-line will be \$1,602,700. The Coleman station-to-Kanda station tie-line construction is estimated at a cost of \$224,600, it is indicated.

*Comment date:* October 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

#### **6. Northern Natural Gas Company Division of Enron Corporation**

[Docket No. CP87-538-000]  
September 25, 1987.

Take notice that on September 14, 1987, Northern Natural Gas Company, Division of Enron Corporation, (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP87-538-000, an application pursuant to section 7(c) of the Natural Gas Act,

requesting authorization for transportation of natural gas on an interruptible basis for the account of Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Pursuant to a gas transportation agreement dated August 14, 1987, Northern seeks authorization to transport up to 7,000 MMBtu of natural gas per day attributable to Amoco's production from Ship Shoal Block 84, offshore Louisiana. Further, if Amoco requests transportation of volumes in excess of 7,000 MMBtu per day, Northern states it has agreed to provide such service to the extent that capacity is available. It is indicated that the gas would be delivered to Northern by Amoco immediately upstream of the measurement facilities on the production platform and Northern would transport and redeliver thermally equivalent volumes for Amoco's account at (1) the existing subsea interconnection between Northern and Transcontinental Gas Pipe Line Corporation (Transco) located in both Ship Shoal Blocks 70 and 72 in Louisiana state waters or (2) at such other point(s) as Northern and Amoco mutually agree. Northern states Transco would provide downstream transportation pursuant to Part 284 of the Commission's Regulations. Northern proposes to initially charge Amoco the effective transportation rate set forth in Northern's Stipulation and Agreement of Settlement in Docket No. RP85-206-000 (S&A). Under the S&A, the maximum transportation rate is 6.43 cents per MMBtu, it is stated. Northern states that it proposes to provide the requested service for a primary term of five years and subsequent two-year terms upon mutual agreements of Amoco and Northern no later than 180 days prior to the expiration of the primary term.

*Comment date:* October 16, 1987, in accordance with Standard Paragraph F at the end of this Notice.

#### **7. Northern Natural Gas Company Division of Enron Corporation**

[Docket No. CP85-636-005]  
September 25, 1987.

Take notice that on September 14, 1987, Northern Natural Gas Company, Division of Enron Corporation (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed at Docket No. CP85-636-005, to petition the Federal Energy Regulatory Commission to amend its order issued February 4, 1987, in Docket No. CP85-636-000, *et al.*, to authorize under section 7(c) of the

Natural Gas Act, the implementation of Phase I of Northern's contract demand turnback program (turnback program) retroactively to permit an effective date of March 27, 1985, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Northern indicates that Section VII of Northern's Stipulation and Agreement of Settlement at Docket No. RP82-71-000 *et al.*, provided for the turnback program, allowing Northern's firm entitlement customers to reduce firm entitlement by two percent in each of three phases.

Northern indicates that based on the issuance of a final Commission order on such settlement, Northern has accepted the order in Docket No. CP85-636-000, *et al.*, which authorizes Phase I retroactively to permit an effective date of October 27, 1985. Northern states that it is requesting authority granting Phase I retroactively to permit an effective date of March 27, 1985, because it is indicated that such effective date was an integral part of the settlement negotiated by all parties to the Docket No. RP82-71-000 settlement and results in greater benefit to Northern's firm entitlement customers in reduced demand charges.

No other changes are proposed.

*Comment date:* October 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

#### **8. Southern Natural Gas Company**

[Docket No. CP70-7-035]  
September 25, 1987.

Take notice that on September 4, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP70-7-035 a petition to amend the order issued in Docket No. CP70-78-000, on October 29, 1969 pursuant to section 7(c) of the Natural Gas Act so as to authorize a decrease in the total contract demand volume of Chattanooga Gas Company (Chattanooga), distribute said decrease in contract demand to its other customers and transfer 200 Mcf of the contract demand of the Polaris Corporation (Polaris) to the contract demand of Atlanta Gas Light Company (Atlanta), all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Southern states that it is currently authorized to sell and deliver to Chattanooga an aggregate contract demand of 30,000 Mcf per day. It is said that by letter dated April 15, 1987, Chattanooga formally notified Southern that it desires to reduce its contract



demand to 22,000 Mcf per day as permitted by Southern's FERC Gas Tariff.

Southern states further that it notified its customers, which did not require additional facilities, that they could obtain their pro rata portion of the 8,000 Mcf that Chattanooga made available. The eligible customers acknowledged their acceptance of the additional contract and maximum delivery obligation, and Southern agreed, upon receipt of the necessary authorization, to make the reallocation of the contract demand, it is stated.

Southern states that it is currently provides Polaris with a contract demand of 450 Mcf per day. It is said that by letter, dated February 5, 1987, Polaris informed Southern of its need to reduce its contract demand to 250 Mcf per day. Atlanta, it is asserted, has agreed to accept the additional 200 Mcf per day and has informed Southern of its intentions by letter dated, July 10, 1987.

Southern states that it can deliver the additional quantities of contract demand to all of the participating customers without the construction of additional facilities.

*Comment date:* October 16, 1987, in accordance with the first subparagraph of Standard Paragraph F at the end of this notice.

#### 9. United Gas Pipe Line Company

[Docket No. CP82-368-002]

September 25, 1987.

Take notice that on September 14, 1987, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP82-368-002 pursuant to section 7(c) of the Natural Gas Act a petition to amend the certificate of public convenience and necessity in Docket No. CP82-368-000, as previously amended, to extend for another five year period United's current authorization which expires April 8, 1988, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

United requests that its current authorization be extended for another five year period to permit acquisition, by lease or purchase, and the operation of up to four portable compressor units, not exceeding 1,000 horsepower each, to be installed and moved as needed on United's system in its East Texas and North Louisiana area. United states that such compression is needed to insure a more adequate flow of gas and is the best method economically for solving operating problems which occasionally develop at points on United's East Texas and North Louisiana system.

*Comment date:* October 16, 1987, in accordance with Standard Paragraph F at the end of this notice.

#### 10. Southern Natural Gas Company

[Docket No. CP87-531-000]

September 25, 1987.

Take notice that on September 9, 1987, Southern Natural Gas Company (Southern), P.O. Box 2563, Birmingham, Alabama 35202-2563, and South Georgia Natural Gas Company (South Georgia), P.O. Box 1279, Thomasville, Georgia 31792, hereinafter referred to as "Applicants" filed in Docket No. CP87-531-000 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for ten Georgia municipalities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request limited-term authorization to transport natural gas on behalf of the City of Adel (Adel), the City of Ashburn (Ashburn), the City of Blakely (Blakely), the City of Cairo (Cairo), the City of Cordele (Cordele), the Fitzgerald Water, Light and Bond Commission (Fitzgerald), the City of Montezuma (Montezuma), the City of Moultrie, the City of Nashville (Nashville), and the City of Tifton (Tifton), all Georgia municipalities, hereinafter referred to collectively as the "Municipalities". It is stated that the Municipalities have each acquire the right to purchase gas from SNG Trading Inc., Consolidated Fuel Supply, Inc., Texican Natural Gas Company, and Panhandle Trading Company. It is further stated that in order to effectuate delivery of the gas, the Municipalities have entered into individual agreements with South Georgia (South Georgia Agreements), wherein South Georgia has agreed to transport each Municipality's gas and to act as its agent in arranging for the transportation of the gas through Southern's pipeline system. South Georgia, as agent for the Municipalities, and Southern entered into transportation agreements (Southern Agreements), which set forth the terms under which Southern would transport the gas purchase by the Municipalities. A list showing the specific term and dates of the individual Southern and South Georgia Agreements is shown in Appendix A attached hereto.

The Southern Agreements provide that South Georgia would cause gas to be delivered to Southern for transportation at the various existing points of delivery on Southern's

contiguous pipeline system specified in Exhibit A to the Southern Agreements. Southern would redeliver to South Georgia at the South Georgia meter station location in Lee County, Alabama (South Georgia redelivery point), an equivalent quantity of gas less 3.25 percent of the volume transported for fuel use.

The South Georgia Agreements provide that the Municipalities would cause gas to be delivered to South Georgia for transportation at the South Georgia redelivery point and would be redelivered to the Municipalities at the meter stations shown in Appendix A attached hereto. South Georgia would redeliver an equivalent volume less 0.5 percent of the volumes transported for fuel use.

The Southern Agreement provide that South Georgia shall pay Southern each month the following transportation rates:

(a) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under any and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD of such day to South Georgia does not exceed the daily contract demand of South Georgia, the transportation rate will be 39.9 cents per MMBtu; and

(b) Where the aggregate of the volumes transported and redelivered by Southern on any day to South Georgia under and all transportation agreements with Southern, when added to the volumes of gas delivered under Southern's Rate Schedule OCD on such day to South Georgia exceed the daily contract demand of South Georgia, the transportation rate for the excess volumes will be 64.9 cents per MMBtu.

The South Georgia Agreements state that each Municipality has agreed to pay South Georgia each month the transportation rate of 28.33 cents per MMBtu redelivered by South Georgia. The Agreements also provide for collection of the applicable GRI surcharge.

Southern states that the transportation arrangement would enable the Municipalities to diversify their natural gas supply sources and to obtain gas at competitive prices. In addition, Southern would obtain take-or-pay relief on the gas the Municipalities may obtain from their suppliers.

*Comment date:* October 16, 1987, in accordance with Standard Paragraph F at the end of this notice.



## APPENDIX A

Municipality	Southern agreement date	South Georgia agreement date	Volumes MMBtu's	Location of redelivery point.
Adel .....	7-23-87	7-17-87	3,000	Adel Meter Station in Cook County, Georgia
Ashburn .....	7-29-87	7-24-87	1,500	Ashburn Meter Station in Cook County, Georgia
Blakely .....	7-29-87	7-28-87	2,000	Blakely Meter Stations Nos. 1 and 2 in Early County, Georgia
Cairo .....	7-29-87	7-28-87	3,000	Cairo Meter Station in Grady County, Georgia
Cordele .....	7-29-87	7-28-87	4,000	Cordele Meter Station in Crisp County, Georgia
Fitzgerald .....	7-17-87	7-16-87	3,000	Fitzgerald Meter Station in Ben Hill County, Georgia
Montezuma .....	7-22-87	7-20-87	4,000	Montezuma Meter Station in Sumter County, Georgia
Moultrie .....	7-17-87	7-16-87	4,000	Moultrie Meter Stations Nos. 1 and 2 in Colquitt County, Georgia
Nashville .....	7-29-87	7-28-87	2,000	Nashville Meter Station in Berrien County, Georgia
Tifton .....	7-17-87	7-16-87	4,000	Tifton Meter Station in Tift County, Georgia

## Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 87-22716 Filed 9-30-87; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. G-16218-003 et al.]

**Applications for Certificates,  
Abandonments of Service and  
Petitions to Amend Certificates  
Chevron U.S.A. Inc., et al.<sup>1</sup>**

September 28, 1987.

Take notice that each of the

<sup>1</sup> This notice does not provide for consolidation for hearing of the several matters covered herein.

Applicants listed herein has filed an application or petition pursuant to section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 14, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

**Kenneth F. Plumb,**  
Secretary.



Docket No. and date filed	Applicant	Purchaser and location	Price per Mcf	Pressure base
G-16218-003, D, Aug. 31, 1987.	Chevron U.S.A. Inc., P.O. Box 7309, San Francisco, Calif. 94120-7309.	Transwestern Pipeline Company, Laverne Field, Beaver County, Oklahoma.	<sup>1</sup> .....	
C187-846-000, F, Sept. 18, 1987.	Helmerich & Payne, Inc. (Succ. in Interest to Cities Service Oil and Gas Corporation), 1579 E. 21st, Tulsa, Okla. 74114.	El Paso Natural Gas Company, Certain acreage in Reeves County, Texas.	<sup>2</sup> .....	
C168-894-004, D, Sept. 21, 1987.	Union Oil Company of California, P.O. Box 7600, Los Angeles, Calif. 90051.	Panhandle Eastern Pipe Line Company, Putnam Field, Dewey County, Oklahoma.	<sup>3</sup> .....	
C187-914-000, B, Sept. 18, 1987.	Edmiston Oil Company, Inc. ....	Stranathan Field, Barber County, Kansas.	<sup>4</sup> .....	
C187-907-000 (C178-1080), B, Sept. 16, 1987.	Enron Oil & Gas Company, P.O. Box 1188, Houston, Texas 77251.	United Gas Pipe Line Company, Billiams Creek Southeast Field, Tyler County, Texas.	<sup>5</sup> .....	
C187-908-000, B, Sept. 16, 1987.	Bogert Oil Company, 2601 N.W. Expressway—Suite 1000W, Oklahoma City, Okla. 73112.	ANR Pipeline Company, NE/4 SE/4 Sec. 30-23N-16W, Major County, Oklahoma.	<sup>6</sup> .....	
C187-913-000 (C169-581), B, Sept. 18, 1987.	ARCO Oil and Gas Company, Division of Atlantic Richfield Company, P.O. Box 2819, Dallas, Texas 75221.	Natural Gas Pipeline Company of America, East Laketon Field, Gray County, Texas.	<sup>7</sup> .....	
C187-901-000 (C160-330), B, Sept. 11, 1987.	Fina Oil and Chemical Company, P.O. Box 2159, Dallas, Texas 75221.	Glasscock Oil Company, Captain Lucey Field, Jim Wells County, Texas.	<sup>8</sup> .....	

<sup>1</sup> Acreage has been assigned to CMS Energy.

<sup>2</sup> Effective 1-1-87, Cities Service Oil and Gas Corporation assigned certain acreage to Helmerich & Payne, Inc.

<sup>3</sup> Union Oil Company of California assigned a certain lease under Docket No. C168-894 to Meadowbrook Oil Corporation of Oklahoma, Inc.

<sup>4</sup> Frieden Lease is not capable of producing gas in commercial quantities.

<sup>5</sup> All wells on contract acreage have been plugged and abandoned.

<sup>6</sup> Applicant is requesting abandonment of NE/4 SE/4 Sec. 30-23N-16W, Major County, Oklahoma which is dedicated to ANR Pipeline under two gas contracts dated 10-23-62 and 8-25-60. The gas is NGPA section 104 flowing gas with the last production occurring in October 1975. The well was plugged and abandoned. The 10-23-62 gas contract has expired and the other contract has production outside the unit which makes up Applicant's drillsite. Applicant obtained new leases for the rest of Sec. 30-23N-16W. ANR is not involved in contracting the rest of this section. No gas was being sold in interstate commerce (or to ANR Pipeline) on 5-31-78, from Sec. 30-23N-16W, Major County, Oklahoma. Applicant is seeking an abandonment regarding these ANR contracts so that they can immediately drill a new well and market the gas to Union Texas Products Corporation through a low pressure gathering system.

<sup>7</sup> All acreage dedicated under contract dated 11-1-68 and Rate Schedule No. 616 was surrendered in February, 1982, due to minimal or unprofitable gas production.

<sup>8</sup> Applicant sold gas to C.V. Lyman, who was succeeded by Glasscock and Petroleum Management, Inc. The contract expired by its own terms in 1973. Glasscock resold the gas to Tennessee Gas Pipeline Company, a Division of Tenneco Inc. Beginning in 1975, gas was sold to Nue-Wells Pipe Line Company for lease fuel purposes pursuant to a letter agreement dated March 7, 1975. Nue-Wells could purchase up to 300 Mcf at a price of \$1.00 per Mcf. A total of 75,291 Mcf was sold from 1975 until August 15, 1984, when the last well was shut in. Deliveries never exceeded 19,892 Mcf/year. The gas was NGPA Section 104 minimum rate gas. Applicant estimates that approximately \$59,316 was collected in excess of the maximum lawful price and is prepared to refund such amount to the proper party.

Filing Code: A—Initial Service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 87-22715 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-12-20-001]

# **Proposed Change in FERC Gas Tariff; Algonquin Gas Transmission Co.**

September 28, 1987.

Take notice that Algonquin Gas Transmission Company ("Algonquin") on September 23, 1987, tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, six (6) copies each of the following tariff sheets:

Substitute Revised Thirteenth Revised Sheet No. 204

Substitute Fourteenth Revised Sheet No. 204

Algonquin states that such tariff sheets are being filed to reflect in its Rate Schedule F-3 changes in the underlying rates of National Fuel Gas Supply Corporation ("National Fuel") as set forth in National Fuel's August 31, 1987 compliance filing, proposed to be effective August 1, 1987.

Algonquin proposes the effective dates of Substitute Revised Thirteenth Revised Sheet No. 204 and Substitute Fourteenth Revised Sheet No. 204 to be August 1, 1987 and October 1, 1987, respectively.

Algonquin notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22708 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M



[Docket No. C187-910-000]

**Application of Catamount Natural Gas, Inc. for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting Pre-Granted Abandonment and for Expedited Consideration; Catamount Natural Gas, Inc.**

September 28, 1987.

Take notice that on September 18, 1987, Catamount Natural Gas, Inc. (CNGI) pursuant to sections 4 and 7 of the Natural Gas Act and Part 157 of the regulations of the Federal Energy Regulatory Commission, filed for a blanket certificate of public convenience and necessity (1) authorizing sales for resale of natural gas in interstate commerce by CNGI (2) authorizing sales for resale of natural gas by the producer suppliers from which CNGI purchases natural gas, and (3) authorizing blanket pre-granted abandonment of such sales, all as more fully set forth in the application which is on file with the Commission and open for public inspection. CNGI states that the authority requested in its application is consistent with the Commission's recent holdings in *ANR Gathering Company*, 40 FERC ¶ \_\_\_\_\_ (September 2, 1987) and *Citizens Energy Corp. et al.*, 39 FERC ¶ 61,106 (1987).

Applicants are seeking authority to purchase and resell, with pre-granted abandonment, natural gas subject to the jurisdiction of the Commission under the NGA. Such authority will allow CNGI to trade in natural gas released under permanent or limited term abandonment authorizations, gas released pursuant to Order No. 451 (Section 270.201 of the Commission's regulations), and other natural gas subject to the Commission's NGA jurisdiction which is not presently required by certificate to be delivered to another purchaser, including contractually uncommitted gas from the Outer Continental Shelf that qualifies under section 102(d) of the Natural Gas Policy Act.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 13, 1987, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 382.211, 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a

motion to intervene in accordance with the Commission's rules. The applicant has requested treatment of the application pursuant to Rule 802 of the Commission's Rules of Practice and Procedure. Under the procedure herein provided for, unless otherwise advised it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22709 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-15-032]

**Proposed Changes in FERC Gas Tariff, Columbia Gas Transmission Corp.**

September 25, 1987.

Take notice that Columbia Gas Transmission Corporation (Columbia), on September 21, 1987, tendered for filing proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1987:

First Revised Sheet No. 22E2

First Revised Sheet No. 22E3

First Revised Sheet No. 22P3

Third Revised Sheet No. 22Q

Columbia states that these changes are being filed in accordance with Ordering Paragraphs (B) and (D) of the Federal Energy Regulatory Commission's (Commission) September 4, 1987 Order Accepting Tariff Sheets for Filing Subject to Conditions in this proceeding.

Columbia states that these tariff sheets clarify that calculation of seasonal imbalances will be based on actual tendered quantities less Daily Scheduled Quantities. Columbia further states that the Daily Scheduled Quantities are those designated by Buyer, in accordance with subsection 6(a) of the appropriate Rate Schedule, but the sum of the Daily Scheduled Quantities can not on a monthly basis exceed the quantities actually delivered by Columbia at the delivery points specified in the service agreement.

Columbia points out that the First Revised Sheet No. 22P3 also contains a new section 6(c)(2)(c), with language identical to the language in section 6(c)(2)(c) of Original Sheet No. 22E3.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such motions or protests must be filed on or

before October 2 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia's filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22703 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP86-14-032]

**Proposed Changes in FERC Gas Tariff, Columbia Gulf Transmission Co.**

September 25, 1987.

Take notice that Columbia Gulf Transmission Company (Columbia Gulf) on September 21, 1987, tendered for filing proposed changes listed in the attached Appendix A to its FERC Gas Tariff, Original Volume No. 1, to be effective April 1, 1987.

Columbia Gulf states that these changes are being filed in accordance with Ordering Paragraph (C) of the Federal Energy Regulatory Commission's (Commission) September 4, 1987 Order Accepting Tariff Sheets for Filing Subject to Conditions in this proceeding.

Columbia Gulf states that these tariff sheets clarify that calculation of seasonal imbalances will be based on actual tendered quantities less Daily Scheduled Quantities. Columbia Gulf further states the Daily Scheduled Quantities are those designated by Shipper, in accordance with subsection 6(a) of the appropriate Rate Schedule, but the sum of the Daily Scheduled Quantities can not on a monthly basis exceed the quantities actually delivered by Columbia Gulf at the delivery points specified in the service agreement.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such motions or protests should be filed on or before October 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of Columbia Gulf filing are on file with



the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22704 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP87-147-000]

### Proposed Changes in FERC Gas Tariff; Kentucky West Virginia Gas Co.

September 28, 1987.

Take Notice that on September 23, 1987, Kentucky West Virginia Gas Company ("Kentucky West"), tendered for filing proposed changes to its FERC Gas Tariff, Second Revised Volume No. 1, First Revised Volume No. 2, and Volume of Effective Service Agreements, to become effective October 1, 1987.

Kentucky West makes this filing for the purpose of setting forth various minor changes in order to clarify and update Volume Nos. 1 and 2 of Kentucky West's Tariff including substituting FERC for FPC where appropriate. Additionally, the filing includes an Annual Charges Adjustment Clause ("ACA") as permitted by the Commission's Order No. 472 series issued in Docket No. RM87-3-000. Kentucky West states that pursuant to the Order No. 472 series and § 154.38(d)(6) of the Commission's Regulations, Kentucky West proposes an Annual Charge Adjustment Clause to the General Terms and Conditions of Kentucky West's FERC Gas Tariff, Second Revised Volume No. 1.

Kentucky West is also including in this filing several superseding service agreements with various small GSS-1 customers, and in addition, is filing the effective service agreements for service being rendered by Kentucky West pursuant to Rule 284 of the Commission's Regulations. Kentucky West requests that the Commission grant such waivers as may be necessary for acceptance of its filing to become effective October 1, 1987, as previously described.

Copies of this filing were served upon the companies' jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests shall be filed on or before October 5, 1987. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22710 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP87-22-000]

### Complaint Regarding Production-Related Costs, Reading & Bates Petroleum Co. v. Tennessee Gas Pipeline, Co. a Division of Tenneco Inc.

September 28, 1987.

On January 8, 1987, Reading & Bates Petroleum Company (Reading & Bates) filed a complaint pursuant to 18 CFR 271.1105(d)(3)(ii) and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206. Reading & Bates requests the Production-Related Costs Board (Board) to find that Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), is in violation of 18 CFR 271.1104 by refusing to reimburse Reading & Bates for production-related costs incurred under its contract with Tennessee.

Reading & Bates states that the contract, dated December 18, 1979, contains language constituting an area rate clause and therefore evidences Tennessee's agreement to compensate Reading & Bates for the cost of delivering natural gas to Tennessee's system. Reading & Bates indicates that it contacted Tennessee seeking reimbursement for production-related costs and that by letter dated July 23, 1986, Tennessee declined to pay such costs stating that the contract does not contain an area rate clause as defined by the regulations and thus does not satisfy the express contractual authorization provision of 18 CFR 271.1104(a)(3).

Under Rules 206(b) and 213(a), 18 CFR 385.206(b) and 385.213(a), Tennessee must file an answer to Reading & Bates' complaint with the Commission unless otherwise ordered by the Commission. Under Rule 213(e), 18 CFR 385.213(e), any person failing to answer a complaint may be considered in default, and all relevant facts stated in such complaint may be deemed admitted. Tennessee shall file its answer with the Commission not later than 15 days after

publication of this notice in the Federal Register.

Any person desiring to be heard or to protest said filing should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214, 18 CFR 385.211 and 385.214. All such protests or motions should be filed not later than 15 days after publication of this notice in the Federal Register. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 87-22713 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA88-1-43-000]

### Proposed Changes in FERC Gas Tariff; Williams Natural Gas Co.

September 28, 1987.

Take notice that Williams Natural Gas Company (WNG) on September 22, 1987, tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

First Revised Sheet No. 2  
Third Revised Sheet No. 6  
Second Revised Sheet Nos. 7 and 8  
First Revised Sheet Nos. 77-80  
First Revised Sheet Nos. 90, 91 and 97  
Alternate Third Revised Sheet No. 6

WNG states that pursuant to the Purchased Gas Adjustment in Article 21 of its FERC Gas Tariff, it proposes to decrease its rates effective October 23, 1987, to reflect:

(1) A 6.14¢ per Mcf decrease in the Cumulative Adjustment due to a decrease in WNG's projected gas purchase costs.

(2) A 3.99¢ per Mcf decrease in the Surcharge Adjustment (to a negative 3.05¢ per Mcf from a positive .94¢ per Mcf) to amortize the Deferred Purchased Gas Cost Subaccount balance.

First Revised Sheet No. 2, Second Revised Sheet Nos. 7 and 8, First Revised Sheet Nos. 77-80 and First Revised Sheet Nos. 90, 91 and 97 are being filed to eliminate the Incremental Pricing provisions and references contained in WNG's FERC Gas Tariff, Original Volume No. 1, Order No. 478 issued July 27, 1987 in Docket No. RM87-28-000, *et al.*, revoked the Commission's incremental pricing rules effective



January 1, 1988. However, since WNG has no incremental surcharges currently outstanding nor projects any to be effective during the six-month PGA period effective October 23, 1987, WNG is requesting a waiver of the Commission's regulations to make such tariff sheets effective October 23, 1987.

WNG filed on August 31, 1987 in Docket No. RP87-118 to change its accounting and billing period, which starts the 23rd of one month and ends the 22nd of the next month, to a standard calendar month accounting and billing period. WNG asked for an effective date on the proposed tariff sheets of October 1, 1987. If these tariff sheets in Docket No. RP87-118 are accepted for filing to be effective October 1, 1987, WNG requests that Alternate Third Revised Sheet No. 6 be accepted to be effective November 1, 1987.

WNG states that copies of its filing were served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before October 5, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 87-22711 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-N

[Docket Nos. TA88-1-44-000 and RP87-146-000]

#### Filing; Commercial Pipeline Co., Inc.

September 25, 1987.

Take notice that on September 22, 1987, Commercial Pipeline Co., Inc. ("Commercial") tendered for filing its 52nd Revised Sheet No. 3A, superseding 51st Revised Sheet No. 3A reflecting Purchased Gas Adjustment and Total Rate as shown below.

	Current adjust- ment	Cumula- tive adjust- ment	Sur- charge adjust- ment	Total rate
(Base).....	\$(6939)	\$6087	\$0777	\$4.1568
(Excess).....	(.7120)	.6022	.0777	4.2617

The proposed effective date of Commercial's filing is October 23, 1987.

Commercial states that this filing reflects adjustments in its purchased gas cost to provide for the tracking of a corresponding PGA adjustment by Commercial's sole supplier, Williams Natural Gas Company ("Williams"), which also is proposed to be effective October 23, 1987. Commercial's filing also reflects surcharge adjustments in accordance with its PGA.

Also take notice that Commercial tendered for filing its Second Revised Sheet No. 7B superseding Substitute First Revised Sheet No. 7B and First Revised Sheet No. 7C superseding Corrected Substitute Original Sheet No. 7C. Commercial states that these tariff sheets contain technical changes to Commercial's tariff to permit the effective operation of Commercial's PGA provision in the event Commercial purchases gas from more than one supplier, or from a supplier other than Williams. The proposed effective date of these tariff sheets also is October 23, 1987.

Commercial further states its understanding that Williams, with its PGA adjustment, has filed a second set of tariff sheets which reflect an effective date of November 1, 1987. Commercial understands that this second set of tariff sheets relates to a filing by Williams in another proceeding (Docket No. RP87-118-000) of revised tariff sheets to convert Williams' fiscal month accounting and billing period, which starts on the 23rd of one month and ends on the 22nd of the next month, to a standard calendar month accounting and billing. Accordingly, Commercial also submitted to the Commission on September 22, 1987, Alternate 52nd Revised Sheet No. 3A, Alternate Second Revised Sheet No. 7B, and Alternate First Revised Sheet No. 7C, each of which reflect an effective date of November 1, 1987, and which are proposed by Commercial to be accepted should the Commission accept Williams' PGA filing and related tariff sheets effective November 1, 1987.

Commercial's alternate tariff sheets also would change the effective dates of its PGA adjustments from October 23 and April 23 to November 1 and May 1 of each year. If needed, Commercial requests waiver of the Commission's Regulations to accept the effective date of November 1, 1987, and permanent

waiver of § 154.38(d)(iv)(a) of the Regulations.

Copies of the filings were served on Commercial's FERC jurisdictional customers, the Kansas Corporation Commission and the Missouri Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 2, 1987. Protestants will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 87-22705 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP78-37-019 et al]

#### Filing of Pipeline Refund Reports; Lawrenceburg Gas Company et al.

September 28, 1987.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports. The date of filing and docket number are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, on or before October 13, 1987. Copies of the respective filings are on file with the Commission and available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

#### APPENDIX

Filing date	Company	Docket No.
8/28/87	Lawrenceburg Gas Company...	RP7-37-019
9/14/87	Northwest Pipeline Corpora- tion.	RP81-47-013
9/14/87	Alabama Tennessee Natural Gas Company.	RP85-117-010
9/17/87	Natural Gas Pipe Line Com- pany of America.	RP85-99-006



## APPENDIX—Continued

Filing date	Company	Docket No.
9/16/87	Florida Gas Transmission Company.	RP85-75-003
9/18/87	Eastern Shore Natural Gas Company.	RP72-134-034

[FR Doc. 87-22712 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01

[Docket No. RP87-141-000 and RP87-141-001]

**Amended Filing; Natural Gas Pipeline Company of America**

September 25, 1987.

Take notice that on September 15, 1987, Natural Gas Pipeline Company of America (Natural) tendered for filing certain tariff sheets to be a part of its FERC Gas Tariff, Third Revised Volume No. 1. This filing was noticed on September 17, 1987, with comments due September 24, 1987, in Docket No. RP87-141-000.

On September 21, 1987, Natural filed an amended filing to correct Daily and Monthly Entitlement volumes for several of its customers. These corrections do not change any of the other previously filed information. This amended filing is docketed in RP87-141-001.

Any person desiring to be heard or to protest the amended filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with §§ 385.211 and 385.214. All such motions or protests must be filed on or before October 5, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 87-22706 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA87-3-17-002]

**Proposed Changes in FERC Gas Tariff; Texas Eastern Transmission Corp.**

September 25, 1987.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on September 21, 1987 tendered for filing as a part of its FERC Gas

Tariff, Fourth Revised Volume No. 1, six copies each of the following tariff sheets:

Second Substitute Eighty-fifth Revised Sheet No. 14

Second Substitute Eighty-fifth Revised Sheet No. 14A

Second Substitute Eighty-fifth Revised Sheet No. 14B

Second Substitute Eighty-fifth Revised Sheet No. 14C

Second Substitute Eighty-fifth Revised Sheet No. 14D

Texas Eastern states that the above tariff sheets are being issued in substitution for tariff sheets filed on July 1, 1987 and July 23, 1987 in Docket Nos. TA87-3-17 and TA87-4-17, respectively, consisting of Texas Eastern's Semiannual PGA tracking filing to be effective on August 1, 1987. Texas Eastern further states that the sole change included in these second substitute tariff sheets is a decrease in the cost of gas purchased from ProGas Limited.

In the July 1, 1987 filing Texas Eastern calculated and included total annual demand payments to ProGas Limited of \$6,525,000 as being in conformance with Opinion Nos. 256 and 256A. Texas Eastern states that such calculation was based upon data available to Texas Eastern at the time of the filing. In the July 23, 1987 filing, Texas Eastern filed substitute tariff sheets supported by work papers furnished by ProGas Limited showing that the correct calculation of the total annual demand payments to ProGas Limited in conformance with Opinion Nos. 256 and 256A was \$8,612,100. The Commission's order dated August 21, 1987 accepted the substitute tariff sheets to be effective August 1, 1987 subject to condition. The Commission deemed the supporting work papers furnished by Texas Eastern on July 23, 1987 to be insufficient to verify conformance to Opinion Nos. 256 and 256A and required Texas Eastern to file such sufficient work papers.

Texas Eastern states that it has been unable to obtain workpapers deemed sufficient to support the \$8,612,100 as the Opinion Nos. 256 and 256A conforming annual demand payment. Therefore, Texas Eastern has calculated and the tariff sheets filed in this filing reflects ProGas Limited annual demand charges calculated using Texas Eastern's modified fixed variable factor based upon Texas Eastern's settlement cost of service in Docket No. RP85-177 which conforms with Opinion Nos. 256 and 256A. The above second substitute tariff sheets include total annual demand payments to ProGas Limited of

\$8,013,690, effecting a further decrease in the Demand-1 component of Texas Eastern sales rates of \$.016/dth.

The proposed effective date of the above tariff sheets is August 1, 1987.

Texas Eastern has respectfully requested waiver of any of the Commission's Regulations deemed necessary to accept the above second substitute tariff sheets to be effective on August 1, 1987, in substitution for those corresponding substitute tariff sheets filed on July 23, 1987.

Texas Eastern has earlier filed tariff sheets with the Commission proposed to be effective September 15, 1987 (Docket No. CP76-57) and October 1, 1987 (Docket No. RP87-128) which do not reflect the rate impact proposed in this filing. Texas Eastern states that it will refile such tariff sheets to reflect any impact of the Commission's decision in this filing.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before October 2, 1987. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 87-22707 Filed 9-30-87; 8:45 am]

BILLING CODE 6717-01-M

**FEDERAL EMERGENCY MANAGEMENT AGENCY****Agency Information Collection Submitted to Office of Management and Budget for Clearance**

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0139

Title: Federal Regional Reconstitution Area (FRRA) Survey



**Abstract:** Data collectors will perform on-site surveys of potential reconstitution sites in order to confirm, upgrade or expand information now stored in FEMA's data base on Federal Regional Reconstitution Areas.

**Type of Respondents:**

State or local governments,  
Businesses or other for-profit  
Federal agencies or employees  
Non-profit institutions  
Small businesses or organizations

**Number of Respondents:** 250

**Burden Hours:** 1,000

**Frequency of Recordkeeping or**

**Reporting:** Other—One Time Report

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2634, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Francine Picoult, (202) 395-7231, Office of Management and Budget, 3235 NEOB, Washington, DC 20503, within two weeks of this notice.

Dated: September 28, 1987.

Wesley C. Moore,

Director, Office of Administrative Support.

[FR Doc. 87-22626 Filed 9-30-87; 8:45 am]

BILLING CODE 6718-01-M

## FEDERAL MARITIME COMMISSION

### Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the *Federal Register* in which this notice appears. The requirements for comments are found in § 572.03 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200040.

Title: Virgin Islands Port Authority Terminal Agreement.

Parties:

Virgin Islands Port Authority  
(Authority)

TMT Sand Company, Inc. (TMT)

Synopsis: The proposed agreement provides that TMT will lease from the

Authority premises, Parcel No. 18 Crown Bay Fill, No. 7B Southside Quarter, St. Thomas, Virgin Islands, consisting of approximately 42,689 square feet. The term of the lease is for a period of ten years.

Agreement No.: 224-200041.

Title: Virgin Islands Port Authority Terminal Agreement.

Parties:

Virgin Islands Port Authority  
(Authority)

Tropical Shipping and Construction Co., Ltd., (Tropical)

Synopsis: The proposed agreement provides that Tropical will lease from the Authority premises located at THIRD PORT FACILITY, Limetree Bay, St. Croix, Virgin Islands for an initial term of ten years with a 5-year renewal option.

Agreement No.: 224-200039.

Title: Virgin Islands Port Authority Terminal Agreement.

Parties:

Virgin Islands Port Authority  
Virgin Islands Maritime Services

Synopsis: The proposed agreement provides for the twenty-year lease of 84,000 square feet of unimproved land located at Crown Bay Fill, St. Thomas Virgin Islands, to be used for a marine terminal facility.

By Order of the Federal Maritime Commission.

Tony P. Kominoth,

Assistant Secretary.

Dated: September 28, 1987.

[FR Doc. 87-22667 Filed 9-30-87; 8:45 am]

BILLING CODE 6730-01-M

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Alabama National Bancorporation, et al.

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may

express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than October 20, 1987.

**A. Federal Reserve Bank of Atlanta**  
(Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Alabama National Bancorporation*, Ashland, Alabama; to acquire 100 percent of the voting shares of Gulf National Bank, Orange Beach, Alabama, a *de novo* bank.

2. *Eastern Bankshares Corp.*, Hialeah, Florida; to become a bank holding company by acquiring 100 percent of the voting shares of Eastern National Bank, Miami, Florida.

3. *Eastern Overseas Bank, Ltd.*, Georgetown, Grand Cayman; to become a bank holding company by acquiring 100 percent of the voting shares of Eastern Bankshares Corp., Hialeah, Florida, a *de novo* bank.

**B. Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *A&P Bank Holding Company*, North Branch, Minnesota; to become a bank holding company by acquiring at least 80 percent of the voting shares of Community National Bank, North Branch, Minnesota.

Board of Governors of the Federal Reserve System, September 25, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22598 Filed 9-30-87; 8:45 am]

BILLING CODE 6210-01-M

### Applications To Engage de Novo in Permissible Nonbanking Activities; First Agency of Leoti, Inc., et al.

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to



banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 16, 1987.

**A. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Agency of Leoti, Inc.*, Leoti, Kansas; to engage *de novo* through its subsidiary, First Insurance of Leoti, Leoti, Kansas, in the sale of general insurance in a town of less than 5,000 in population pursuant to § 225.25(b)(8)(iii)(A) of the Board's Regulation Y. This activity will be conducted in Wichita County, Kansas.

Board of Governors of the Federal Reserve System, September 25, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22599 Filed 9-30-87; 8:45 am]

BILLING CODE 6210-01-M

#### Acquisitions of Companies Engaged in Permissible Nonbanking Activities; First Bancorp of Tonkawa, Inc., et al.

The organizations listed in this notice have applied under § 225.23(a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23(a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.21(a) of Regulation Y

(12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than October 19, 1987.

**A. Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bancorp of Tonkawa, Inc.*, Tonkawa, Oklahoma; to retain ownership of Burton Insurance Trust, Tonkawa, Oklahoma, and thereby indirectly acquire Burton Insurance Agency, Inc., Tonkawa, Oklahoma, and thereby engage in general insurance agency activities in a town of less than 5,000 in population; and continue to engage in the sale of credit-related life and accident and health insurance pursuant to § 225.25(b)(8) of the Board's Regulation Y. The general insurance agency activities will be conducted in the town of Tonkawa, Oklahoma and the immediate vicinity.

**B. Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Bancorp Hawaii, Inc.*, Honolulu, Hawaii; to acquire Bancorp Life

Insurance Company of Hawaii, Inc., Phoenix, Arizona, and thereby engage in the reinsurance of credit life and credit accident and health insurance issued in connection with mortgage lending pursuant to § 225.25(b)(8) of the Board's Regulation Y. These activities will be conducted in the Hawaiian Islands, Guam, Yap, Koror, American Samoa, Pohnpei and the Marshall Islands. Comments on this application must be received by October 14, 1987.

Board of Governors of the Federal Reserve System, September 25, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-22600 Filed 9-30-87; 8:45 am]

BILLING CODE 6210-01-M

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Alcohol, Drug Abuse, and Mental Health Administration

##### Epidemiologic and Services Research Review Committee

Pursuant to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776) and the Anti-Drug Abuse Act of 1986, (Pub. L. 99-570, section 501(j)), the Administrator, Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), announces the reestablishment, effective September 25, 1987 of the following committee:

##### Epidemiologic and Services Research Review Committee, NIMH

The duration of this committee is continuing unless formally determined by the Administrator, ADAMHA, that termination would be in the best public interest.

Dated: September 25, 1987.

Donald Ian Macdonald,

Administrator, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 87-22635 Filed 9-30-87; 8:45 am]

BILLING CODE 4160-20-M

#### Meeting; Basic Behavioral Processes Research Review Committee

**AGENCY:** Alcohol, Drug Abuse, and Mental Health Administration, HHS.  
**ACTION:** Notice of meeting.

**SUMMARY:** This notice sets forth the schedule and proposed agenda of the forthcoming meeting of one of the agency's initial review committees in the month of October 1987. This committee will be open for discussion of administrative announcements and



program developments. The Committee will be performing initial review of applications for Federal assistance. Therefore, portions of the meeting will be closed to the public as determined by the Administrator, ADAMHA, in accordance with 5 U.S.C. 552(b)(6) and 5 U.S.C. app. 2, 10(d). Notice of this meeting is required under the Federal Advisory Committee Act, Pub. L. 92-463.

**Committee Name:** Basic Behavioral Processes

**Research Review Committee, NIMH**

**Date and Time:** October 22-23: 8:00 a.m.

**Place:** Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, MD, 20814

**Status of Meeting:**

**Open—8:00-9:00 a.m.**

**Closed—Otherwise**

**Contact:** Doris East, Parklawn Building, Room 9C-26, 5600 Fishers Lane, Rockville, MD 20857, (301) 443-3936

**Purpose:** The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to experimental and physiological psychology and comparative behavior, with recommendations to the National Advisory Mental Health Council for final review.

Substantive information, summaries of the meetings, and roster of committee members may be obtained from the contract person listed above.

**Dated:** September 25, 1987.

**Peggy W. Cockrill,**

*Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.*

[FR Doc. 87-22620 Filed 9-30-87; 8:45 am]

**BILLING CODE 4160-20-M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[WY-030-07-4333-10; Order WY-031-8701]

#### Off-Road Vehicle Designations; Wyoming

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of off-road vehicle designation order WY-031-8701.

**SUMMARY:** Notice is hereby given in relation to the use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989 and regulations contained in 43 CFR Part 8340. The following described lands under administration of the Bureau of Land Management are designated as open, limited or closed to off-road motorized vehicle use.

**EFFECTIVE DATE:** November 2, 1987, at 4:30 p.m.

**FOR FURTHER INFORMATION:** Contact either of the following Bureau of Land Management offices: District Manager, Rawlins District Office, P.O. Box 670, 1300 Third St., Rawlins, Wyoming 82301 (307) 324-7171; Area Manager, Lander Resource Area, P.O. Box 589, 125 Sunflower, Lander, Wyoming, 82520, (307) 332-7822.

**SUPPLEMENTARY INFORMATION:** The 1,400,000-acre area being designated is in the Lander Resource area, which includes most of Fremont County and portions of Natrona, Sweetwater, Hot Springs and Carbon Counties, Wyoming. These designations are a result of land use decisions made in the 1987 Resource Management Plan. Comments received during the planning process have influenced these designation decisions.

The Bureau recognizes the difference between off-road vehicles and over-snow vehicles (in terms of use and impact). Therefore, travel by over-snow vehicles will be permitted off existing routes, as specifically provided, only if they are operated in a responsible manner without damaging the vegetation or harming wildlife.

#### Designations

##### 1. Open Designation

No areas were identified for open designation.

##### 2. Limited Designation

a. Use is limited to existing roads and vehicle routes on 1,390,000 acres. Use is limited to those roads and vehicle routes in existence as of the date of this publication. Temporary excursions leaving existing vehicular routes are permitted only to accomplish necessary tasks and only if such travel does not result in resource damage. Necessary tasks involve work requiring the use of a motor vehicle. Examples include picking up big game kills, repairing range improvements, managing livestock and locatable mineral operations that are covered under the casual use or the notice levels outlined in the 43 CFR Part 3809 Surface Management Regulations, etc. Resource damage is defined as leaving long-term signs of vehicle use (ruts), causing erosion or water pollution or creating undue degradation of other vegetative or wildlife resources.

Random or unnecessary travel from existing vehicle routes is not allowed. Creation of new routes or extension and/or widening of existing routes is not allowed without prior written agency approval.

This designation is determined to be appropriate for a majority the public

lands by accommodating access needs while providing resource protection.

b. Use is limited to designated roads and vehicle routes on 4,500 acres. Vehicle travel is permitted only on roads and vehicle routes designated as open by the BLM. Until final publication of maps and brochures and sign installation is accomplished, vehicular travel is limited to existing roads and vehicle routes as designated under 2a above. Areas where vehicle use is permitted only on roads and vehicle routes designated by the Bureau and identified with signs and on maps are as follows: Whiskey Mountain (4,500 acres) Dubois, Wyoming.

c. Use limited by the number and type of vehicles.

There are several vehicle routes identified by signs and maps as suitable for four-wheel-drive vehicles.

d. Use limited to time or season.

Several roads and vehicle routes are closed seasonally to protect the roadbed and surrounding watershed values (approximate dates of closure are indicated on signs and maps). Where specialized restrictions are necessary to meet other resources management objectives, other limitations may also be developed.

##### 3. Closed Designation

Two areas are identified for ORV closure to protect natural and cultural values. These are:

Castle Gardens (80 acres) east of Riverton, Wyoming.

Dubois Badlands (4,500 acres) east of Dubois, Wyoming.

#### Access

ORV designations apply to all off-road vehicles regardless of their purpose. However, emergency vehicles in emergency situations are excluded from these designations.

The use of closed roads or areas will be by permit only. Mineral prospectors and explorers under the Mining Law of 1872 must obtain authorization from BLM pursuant to the 43 CFR Part 3809 regulations to operate a motor vehicle on a closed road or in a closed area.

Any person(s) having special access needs may apply to the authorized officer for a permit to enter the area. Any constructed areas will require a right-of-way under 43 CFR Part 2800.

**Richard Bastin,**  
*District Manager.*

[FR Doc. 87-22615 Filed 9-30-87; 8:45 am]

**BILLING CODE 4310-22-M**



**Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska**

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48538 has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 17 S., R. 1 E.,

Sec. 31.

(605 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to \$5 per acre per year, and royalty increased to 16% percent. The \$500 administrative fee and the cost of publishing this notice have been paid. The required rentals and royalties accruing from April 1, 1987, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48538 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective April 1, 1987, subject to the terms and conditions cited above.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

Dated: September 25, 1987.

[FR Doc. 87-22642 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-JA-M

[AZ-940-07-4212-12; A-21081]

**Realty Action; Arizona**

**AGENCY:** Bureau of Land Management Interior.

**ACTION:** Notice.

**SUMMARY:** This notice is to inform the public of the completion of an exchange of mineral estates between the United States and the State of Arizona that resulted in the consolidation of ownership of the surface and mineral estates by the State and Federal Governments. The United States acquired the mineral estate in 57,980.39 acres of land in Cochise, Graham, Greenlee, Pima and Pinal Counties. The State of Arizona acquired the mineral estate in 57,517.52 acres of land in Cochise, Graham, Greenlee, Pima and Pinal Counties.

**FOR FURTHER INFORMATION CONTACT:** Marsha Luke, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 241-5534.

**SUPPLEMENTARY INFORMATION:** On July 30, 1987, the Bureau of Land

Management issued Patent No. 02-87-0038 and Deed No. AZ-87-007 to the State of Arizona transferring ownership of the mineral estate on the following described land pursuant to section 206 of the Federal Land policy and Management Act of 1976:

Gila and Salt River Meridian, Arizona

T. 3 S., R. 29 E.,

Sec. 23, N $\frac{1}{2}$ S $\frac{1}{2}$ ;

Sec. 24, N $\frac{1}{2}$ S $\frac{1}{2}$ ;

T. 3 S., R. 30 E.,

Sec. 17, SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 19, lots 1, 2, and 3, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ;

T. 5 S., R. 16 E.,

Sec. 30, lots 1 and 2, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 31, E $\frac{1}{2}$ E $\frac{1}{2}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ ;

T. 6 S., R. 16 E.,

Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,

E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 6, lot 1;

Sec. 7, lots 1-4, incl., W $\frac{1}{2}$ E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 8, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;

Sec. 9, N $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 33, lots 4, 5, and 6, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

T. 6 S., R. 17 E.,

Sec. 7, SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 8, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 17, NW $\frac{1}{4}$ ;

Sec. 19, lots 1-4, incl., NE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ ,

E $\frac{1}{2}$ W $\frac{1}{2}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 30, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

T. 7 S., R. 16 E.,

Sec. 3, lots 6 and 7, S $\frac{1}{2}$ NW $\frac{1}{4}$ ;

Sec. 4, lots 1, 6, 16 and 17;

T. 8 S., R. 30 E.,

Sec. 28, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ,

SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 29, all;

T. 9 S., R. 17 E.,

Sec. 1, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 6, lots 1, 2 and 3, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,

E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 7, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 8, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ;

Sec. 14, NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,

N $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 18, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

T. 9 S., R. 29 E.,

Sec. 8, all;

Sec. 17, all;

Sec. 20, N $\frac{1}{2}$ ;

Sec. 29, all;

T. 9 S., R. 30 E.,

Sec. 6, NE $\frac{1}{4}$ SW $\frac{1}{4}$ ;

T. 9 S., R. 31 E.,

Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ ;

Sec. 19, S $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 20, S $\frac{1}{2}$ S $\frac{1}{2}$ ;

Sec. 21, all;

Sec. 27, all;

Sec. 28, all;

Sec. 29, all;

Sec. 30, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

T. 9 S., R. 32 E.,

Sec. 15, lots 1, 2 and 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,

W $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 22, lots 1-4, incl., W $\frac{1}{2}$ E $\frac{1}{2}$ , SW $\frac{1}{4}$ ;

Sec. 31, all;

T. 10 S., R. 17 E.,

Sec. 18, lot 1, N $\frac{1}{2}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;

T. 10 S., R. 18 E.,

Sec. 4, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 5, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 7, lots 1-10, incl., NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ;

Sec. 8, W $\frac{1}{2}$ ;

Sec. 9, N $\frac{1}{2}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 10, lots 1-4, incl., NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ,

SE $\frac{1}{4}$ ;

Sec. 11, all;

Sec. 14, all;

Sec. 15, all;

Sec. 16, lots 1-4, incl., W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ ;

Sec. 20, all;

Sec. 21, W $\frac{1}{2}$ W $\frac{1}{2}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ,

SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

Sec. 23, lots 1-8, incl., W $\frac{1}{2}$ ;

Sec. 24, lot 1, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;

Sec. 25, all;

Sec. 26, all;

Sec. 28, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ ;

Sec. 29, all;

Sec. 31, lots 1-10, incl., E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 33, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;

T. 10 S., R. 19 E.,

Sec. 19, lot 4;

Sec. 20, S $\frac{1}{2}$ N $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 28, all;

Sec. 29, all;

Sec. 30, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 31, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 33, all;

Sec. 34, all;

Sec. 35, all;

T. 10 S., R. 29 E.,

Sec. 13, S $\frac{1}{2}$ ;

Sec. 14, SE $\frac{1}{4}$ ;

Sec. 23, E $\frac{1}{2}$ ;

Sec. 24, lots 1-4, incl., W $\frac{1}{2}$ E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ,

SW $\frac{1}{4}$ ;

Sec. 36, S $\frac{1}{2}$ SW $\frac{1}{4}$ ;

T. 10 S., R. 32 E.,

Sec. 3, lots 6 and 7, SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;

Sec. 4, S $\frac{1}{2}$ ;

Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ ;

Sec. 6, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ ;

T. 11 S., R. 17 E.,

Sec. 13, E $\frac{1}{2}$ ;

Sec. 24, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;

T. 11 S., R. 18 E.,

Sec. 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 4, lots 1-13, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ ,

SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 6, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 8, all;

Sec. 9, lots 1-4, incl., W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ ;

Sec. 10, NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 15, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;

Sec. 17, all;

Sec. 18, E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ , SW $\frac{1}{4}$ NW $\frac{1}{4}$ ,

W $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 19, E $\frac{1}{2}$ , NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ;

Sec. 20, all;

Sec. 21, lots 1, 2 and 4, W $\frac{1}{2}$ E $\frac{1}{2}$ , W $\frac{1}{2}$ ;

Sec. 22, W $\frac{1}{2}$ NW $\frac{1}{4}$ ;

Sec. 27, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ;

Sec. 28, lots 1 and 2, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ,

N $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ ;

Sec. 29, all;

Sec. 30, S $\frac{1}{2}$ ;

Sec. 31, all;

Sec. 33, lot 8, W $\frac{1}{2}$ W $\frac{1}{2}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;

T. 11 S., R. 19 E.,

Sec. 3, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 4, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 8, all;

Sec. 9, all;



Sec. 10, N $\frac{1}{2}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ SW $\frac{1}{4}$ ;  
 T. 11 S., R. 29 E.,  
 Sec. 1, lot 4.  
 T. 12 S., R. 18 E.,  
 Sec. 6, lots 2, 3 and 4.  
 T. 12 S., R. 19 E.,  
 Sec. 1, lots 3-7, incl., SE $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 3, lots 1-12, incl.;  
 Sec. 4, lots 1-8, incl.;  
 Sec. 26, all.  
 T. 12 S., R. 28 E.,  
 Sec. 21, NW $\frac{1}{4}$ ;  
 Sec. 27, NE $\frac{1}{4}$ , NE $\frac{1}{4}$ NW $\frac{1}{4}$ ;  
 Sec. 34, S $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 T. 13 S., R. 19 E.,  
 Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 5, lots 3-8, incl., W $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 6, lots 1-7, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 7, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 8, lots 1-4, incl., W $\frac{1}{2}$ W $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
 Sec. 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 11, N $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Sec. 14, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 15, NE $\frac{1}{4}$ NE $\frac{1}{4}$ ;  
 Sec. 17, lots 1-7, incl., SW $\frac{1}{4}$ NE $\frac{1}{4}$ ,  
 S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 18, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 21, lot 1 and lots 4-7, incl.  
 T. 13 S., R. 26 E.,  
 Sec. 21, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
 SE $\frac{1}{4}$ NW $\frac{1}{4}$ .  
 T. 13 S., R. 27 E.,  
 Sec. 3, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
 T. 13 S., R. 28 E.,  
 Sec. 3, S $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 10, NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 T. 13 S., R. 29 E.,  
 Sec. 14, S $\frac{1}{2}$ SW $\frac{1}{4}$ ,  
 Sec. 23, N $\frac{1}{2}$ NW $\frac{1}{4}$ .  
 T. 13 S., R. 30 E.,  
 Sec. 33, SW $\frac{1}{4}$ .  
 T. 16 S., R. 20 E.,  
 Sec. 23, all.

Compromising 57,517.52 acres in Cochise,  
 Graham, Greenlee, Pima and Pinal Counties.

In exchange the United States  
 acquired the mineral estate in the  
 following described land:

Gila and Salt River Meridian, Arizona

T. 4 S., R. 23 E.,  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 16, all;  
 Sec. 36, lots 1-3, incl., N $\frac{1}{2}$ , SE $\frac{1}{4}$ .  
 T. 4 S., R. 25 E.,  
 Sec. 17, W $\frac{1}{2}$ ;  
 Sec. 20, W $\frac{1}{2}$ ;  
 Sec. 32, all.  
 T. 5 S., R. 24 E.,  
 Sec. 2, lots 1-4, incl., E $\frac{1}{2}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 36, NE $\frac{1}{4}$ , W $\frac{1}{2}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ .  
 T. 5 S., R. 25 E.,  
 Sec. 16, all;  
 Sec. 32, all.  
 T. 5 S., R. 27 E.,  
 Sec. 27, all.  
 T. 6 S., R. 25 E.,  
 Sec. 2, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ .  
 T. 6 S., R. 26 E.,  
 Sec. 32, lot 5, NE $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ .  
 T. 7 S., R. 28 E.,  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 32, all;

Sec. 36, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 7 S., R. 29 E.,  
 Sec. 32, all.  
 T. 8 S., R. 27 E.,  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 3, SW $\frac{1}{4}$ ;  
 Sec. 36, all.  
 T. 8 S., R. 28 E.,  
 Sec. 2, all;  
 Sec. 13, all;  
 Sec. 36, lots 1-4, incl., N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ .  
 T. 8 S., R. 29 E.,  
 Sec. 16, all;  
 Sec. 32, all.  
 T. 9 S., R. 27 E.,  
 Sec. 31, lots 3 and 4, E $\frac{1}{2}$ , E $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 32, all.  
 T. 9 S., R. 28 E.,  
 Sec. 2, lots 2, 4-16, incl., S $\frac{1}{2}$ SW $\frac{1}{4}$ ;  
 Sec. 16, all;  
 Sec. 36, lots 1-4, incl., E $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ .  
 T. 10 S., R. 27 E.,  
 Sec. 6, lots 1-7, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 7, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 16, all;  
 Sec. 18, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 32, all;  
 Sec. 36, all.  
 T. 10 S., R. 28 E.,  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 16, all;  
 Sec. 32, all.  
 T. 10 S., R. 29 E.,  
 Sec. 16, all;  
 Sec. 32, all.  
 T. 10 S., R. 30 E.,  
 Sec. 33, lots 1-4, incl., N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ .  
 T. 11 S., R. 27 E.,  
 Sec. 2, lots 1, 2, 3, 5, 6 and 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 13, all;  
 Sec. 16, all.  
 T. 11 S., R. 28 E.,  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 36, all.  
 T. 11 S., R. 29 E.,  
 Sec. 9, all;  
 Sec. 24, all;  
 Sec. 25, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ ;  
 Sec. 32, all.  
 T. 11 S., R. 30 E.,  
 Sec. 1, lots 3 and 4;  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ .  
 T. 11 S., R. 31 E.,  
 Sec. 2, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 28, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ ;  
 Sec. 32, N $\frac{1}{2}$ NE $\frac{1}{4}$ .  
 T. 12 S., R. 29 E.,  
 Sec. 4, lots 1, 3 and 4, SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
 S $\frac{1}{2}$ ;  
 Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ ;  
 Sec. 6, lots 1-7, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 7, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 8, NW $\frac{1}{4}$ ;  
 Sec. 9, W $\frac{1}{2}$ ;  
 Sec. 10, all;  
 Sec. 13, all;  
 Sec. 14, all;  
 Sec. 15, all;  
 Sec. 16, all;  
 Sec. 17, N $\frac{1}{2}$ ;  
 Sec. 20, all;  
 Sec. 21, all;

Sec. 22, N $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
 Sec. 23, all;  
 Sec. 24, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 25, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 26, all;  
 Sec. 27, all;  
 Sec. 28, all;  
 Sec. 30, lots 1 and 2, NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 33, N $\frac{1}{2}$ NE $\frac{1}{4}$ ;  
 Sec. 34, E $\frac{1}{2}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 35, E $\frac{1}{2}$ , SW $\frac{1}{4}$ ;  
 Sec. 36, all.  
 T. 12 S., R. 30 E.,  
 Sec. 16, all;  
 Sec. 18, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 20, W $\frac{1}{2}$ ;  
 Sec. 28, all;  
 Sec. 29, all;  
 Sec. 30, lots 1-4, incl., NE $\frac{1}{4}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
 Sec. 32, all;  
 Sec. 33, N $\frac{1}{2}$ , SW $\frac{1}{4}$ ;  
 Sec. 34, W $\frac{1}{2}$ ;  
 Sec. 36, lots 1 and 2, E $\frac{1}{2}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ .  
 T. 12 S., R. 31 E.,  
 Sec. 1, lots 1 and 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
 NE $\frac{1}{4}$ SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
 Sec. 2, lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$ .  
 T. 12 S., R. 32 E.,  
 Sec. 6, lot 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ .  
 T. 13 S., R. 28 E.,  
 Sec. 29, SE $\frac{1}{4}$ .  
 T. 13 S., R. 29 E.,  
 Sec. 1, lot 1;  
 Sec. 2, lots 1-12, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ ;  
 Sec. 3, lots 1 and 2, lots 5-14, incl.;  
 Sec. 10, lots 1-8, incl.;  
 Sec. 11, lots 3-8, incl.;  
 Sec. 14, N $\frac{1}{2}$ NW $\frac{1}{4}$ ;  
 Sec. 15, E $\frac{1}{2}$ NE $\frac{1}{4}$ .  
 T. 13 S., R. 30 E.,  
 Sec. 1, lot 3, SW $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 2, lots 1, 2, 3 and 5, S $\frac{1}{2}$ N $\frac{1}{2}$ , SW $\frac{1}{4}$ ,  
 W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
 Sec. 3, lots 2-7, incl., S $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;  
 Sec. 4, lots 3 and 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
 Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
 Sec. 6, lots 1-7, incl., S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ ,  
 E $\frac{1}{2}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ .  
 T. 15 S., R. 28 E.,  
 Sec. 2, SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ ,  
 SW $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ .

Comprising 57,980.39 acres in Cochise,  
 Graham, Greenlee, Pima and Pinal Counties.

The purpose of this notice is to inform  
 the public and interested local  
 government officials of the transfer of  
 Federal minerals and the acquisition of  
 State minerals by the Federal  
 government.

John T. Mezes,  
 Chief, Branch of Lands and Minerals  
 Operations.

[FR Doc. 87-22608 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-32-M

[AZ-940-07-4212-12; A-22698]

Realty Action; Arizona

AGENCY: Bureau of Land Management,  
 Interior.



**ACTION: Notice.**

**SUMMARY:** This action informs the public of the completion of an exchange between the United States and the State of Arizona. The United States acquired 11,747.60 acres of land in the Mohave County and transferred 5,397.62 acres in Pinal County to the State of Arizona.

**FOR FURTHER INFORMATION CONTACT:** Marsha Luke, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 241-5534.

**SUPPLEMENTARY INFORMATION:** On August 31, 1987, the Bureau of Land Management transferred the following described land by Patent No. 02-87-0043, pursuant to section 206 of the Federal Land Policy and Management Act of 1976:

**Gila and Salt River Meridian, Arizona**

- T. 4 S., R. 10 E.,  
Sec. 33, SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ ; E $\frac{1}{2}$ SE $\frac{1}{4}$ .
- T. 5 S., R. 10 E.,  
Sec. 3, lots 1-4 incl., SE $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
Sec. 4, lots 1-4 incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
Sec. 8, NE $\frac{1}{4}$ ;  
Sec. 9, N $\frac{1}{2}$ , SE $\frac{1}{4}$ ;  
Sec. 10, W $\frac{1}{2}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , S $\frac{1}{2}$ ;  
Sec. 14, all;  
Sec. 23, E $\frac{1}{2}$ , SW $\frac{1}{4}$ ;  
Sec. 26, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ ;
- T. 6 S., R. 14 E.,  
Sec. 5, lots 1-4 incl., N $\frac{1}{2}$ S $\frac{1}{2}$ .
- T. 7 S., R. 12 E.,  
Sec. 14, all.
- T. 9 S., R. 11 E.,  
Sec. 1, S $\frac{1}{2}$ .

Comprising 5,397.62 acres in Pinal County.

In exchange the following described land was reconveyed to the United States:

**Gila and Salt River Meridian, Arizona**

- T. 19 N., R. 14 W.,  
Sec. 2, lots 1-4 incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
Sec. 4, lots 1-4 incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
Sec. 8, all;  
Sec. 10, all;  
Sec. 12, all;  
Sec. 14, all;  
Sec. 16, all;  
Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;
- T. 19., R. 15 W.,  
Sec. 16, all.
- T. 20 N., R. 14 W.,  
Sec. 20, all;  
Sec. 22, all;  
Sec. 24, all;  
Sec. 26, W $\frac{1}{2}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 28, all;  
Sec. 32, all;  
Sec. 34, all;  
Sec. 36, all.
- T. 20 N., R. 15 W.,  
Sec. 2, SE $\frac{1}{4}$ ;  
Sec. 12, N $\frac{1}{2}$ , SW $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ , N $\frac{1}{2}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ . (surface only)
- T. 21 N., R. 15 W.,

Sec. 36, all.

Comprising 11,748.60 acres in Mohave County.

The purpose of this notice is to inform the public and interested Government officials of the exchange of public and State land.

**DATE:** At 9 a.m. on November 2, 1987 the land acquired by the United States will be open to the operation of the public lands laws, the general mining laws and to applications and offers under the mineral leasing laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal laws. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

John T. Mezes,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-22806 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-32-M

**[AZ-020-07-4212-12; A 20346]****Cancellation of Realty Action; Arizona**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Cancellation of notice of realty action.

The purpose of this notice is to cancel a notice of realty action published in Vol. 52, No. 59 of the Federal Register on March 27, 1987.

A 20346-A affecting Pinal County lands in T. 3 S., R. 7 E., secs. 4, 5, 8, 14, 17, 22, 23, and 24 is hereby cancelled.

Henri R. Bisson,  
District Manager, Phoenix District.

Date: September 24, 1987.

[FR Doc. 87-22609 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-32-M

**[AZ-020-07-4212-11; A 20633]****Partial Cancellation of Realty Action; Arizona**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Cancellation of notice of realty action.

The purpose of this notice is to cancel a notice of realty action published in

Vol. 52, No. 40 of the Federal Register on March 2, 1987.

A 20633 is hereby cancelled as it affects Pinal County lands in T. 3 S., R. 7 E., secs. 33, 34, 35 and 36.

Henri R. Bisson,  
District Manager, Phoenix District.

Date: September 24, 1987.

[FR Doc. 87-22610 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-32-M

**[OR 956-07-4830-11; GP-07-299]****Realty Action; Transfer of Administrative Jurisdiction, Grant County, OR**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** This notice announces the transfer of public lands and interests in lands from the jurisdiction of the Burns District to the Prineville District.

**FOR FURTHER INFORMATION CONTACT:** Steve Leroux, BLM Oregon State Office; P.O. Box 2965, Portland, Oregon 97208; (503) 230-5735.

**EFFECTIVE DATE:** October 1, 1987.

**SUPPLEMENTARY INFORMATION:** All lands and interests in lands in Grant County, Oregon administered by the Burns District, Bureau of Land Management are transferred to the Prineville District, Bureau of Land Management except for T. 17 S., Rs. 31 and 32 E., and T. 18 S., Rs. 31 and 32 E., Willamette Meridian. Lands in Grant County administered by the Vale District will continue to be administered by the Vale District. These lands and interests in lands are those located in T. 15 S., R. 36 E.; T. 16 S., R. 36 E.; and T. 17 S., R. 36 E., Willamette Meridian.

Charles W. Luscher,  
State Director.

[FR Doc. 87-22613 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-33-M

**[OR-943-07-4220-10; GP-07-298; OR-21317-A, ORE-013871, ORE-05743, ORE-06585, OR-21598]**

**Proposed Continuation of Withdrawals; Oregon**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service proposes that all or portions of five separate land withdrawals continue for an additional 20 years and requests that the lands



involved remain closed to mining and, where closed, be opened to surface entry.

**FOR FURTHER INFORMATION CONTACT:** Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905.

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

#### Deschutes National Forest

1. OR 21317-A, Secretarial Order of November 17, 1906, Allingham Administrative Site, 65 acres, Located in Jefferson County, approximately 36 miles northwest of Bend,  
T. 13 S., R. 9 E., W.M., sec. 3.

#### Fremont National Forest

2. ORE 013871, Public Land Order No. 3363 of April 7, 1964, East Bay Recreation Area, 50 acres, Located in Lake County, approximately 64 miles northwest of Lakeview,  
T. 30 S., R. 14 E., W.M., sec. 28.  
Deep Creek Recreation Area, 20 acres, Located in Lake County, approximately 13 miles southeast of Lakeview,  
T. 40 S., R. 22 E., W.M., sec. 31.  
Mud Creek Recreation Area, 10 acres, Located in Lake County, approximately 10 miles northeast of Lakeview,  
T. 38 S., R. 21 E., W.M., sec. 11.
3. ORE 05743, Public Land Order No. 1787 of February 3, 1959, Shoe String Creek Administrative Site, 33.55 acres, Located in Lake County, approximately 18 miles northwest of Lakeview,  
T. 37 S., R. 18 E., W.M., sec. 4.
4. ORE 06585, Public Land Order No. 2298 of March 14, 1961, Sprague River Recreation Area, 60 acres, Located in Klamath County, approximately 33 miles northwest of Lakeview,  
T. 37 S., R. 15 E., W.M., sec. 8.  
Warner Canyon Recreation Area, 84.39 acres, Located in Lake County, approximately 5 miles northeast of Lakeview,  
T. 38 S., R. 21 E., W.M., secs. 30 and 31.  
Drews Creek Recreation Area, 30 acres, Located in Lake County, approximately 8 miles southeast of Lakeview,  
T. 40 S., R. 21 E., W.M., sec. 10.  
Loften Lake Recreation Area, 154.94 acres, Located in Lake County, approximately 25 miles northwest of Lakeview,  
T. 38 S., R. 16 E., W.M., sec. 22.  
Marster Springs Recreation Area, 20 acres, Located in Lake County, approximately 7 miles southwest of Paisley,  
T. 34 S., R. 18 E., W.M., sec. 16.  
Lee Thomas Recreation Area, 40 acres, Located in Lake County, approximately 16 miles southwest of Paisley,  
T. 34 S., R. 16 E., W.M., sec. 28.

Thompson Reservoir Recreation Area, 40 acres, Located in Lake County, approximately 12 miles south of Silver Lake,

- T. 30 S., R. 14 E., W.M., sec. 20.
- Deadhorse and Campbell Lakes Recreation Area, 340.45 acres, Located in Lake County, approximately 17 miles southwest of Paisley,  
T. 35 S., R. 16 E., W.M., sec. 1 and T. 35 S., R. 17 E., W.M., sec. 6.
- Warner Administrative Site, 40 acres, Located in Lake County, approximately 10 miles east of Lakeview,  
T. 39 S., R. 21 E., W.M., sec. 3.
- Aspen Cabin Administrative Site, 10 acres, Located in Lake County, approximately 10 miles northeast of Lakeview,  
T. 38 S., R. 21 E., W.M., sec. 12.
- Willow Creek Administrative Site, 40 acres, Located in Lake County, approximately 10 miles southeast of Lakeview,  
T. 40 S., R. 21 E., W.M., secs. 13 and 14.
- Ingram Administrative Site, 20 acres, Located in Lake County, approximately 12 miles southwest of Paisley,  
T. 34 S., R. 17 E., W.M., sec. 30.
5. OR 21598, Secretarial Order of January 7, 1908, Currier Administrative Site, 10 acres, Located in Klamath County, approximately 20 miles west of Paisley,  
T. 33 S., R. 15 E., W.M., sec. 14.

The withdrawals currently segregate the lands from operation of the mining laws, but not the mineral leasing laws and some of the lands are closed to operation of the public land laws generally. The Forest Service requests no changes in the purpose or segregative effect of the withdrawals except that the lands be opened to operation of the public land laws generally where they are presently closed.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal continuations may present their views in writing to the undersigned officer at the address specified above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the lands and their resources. A report will also be prepared for consideration by the Secretary of the Interior, the President and Congress, who will determine whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the *Federal Register*. The existing

withdrawals will continue until such final determination is made.

**Robert E. Mollohan,**  
*Acting Chief, Branch of Lands and Minerals Operations.*

Dated: September 22, 1987.

[FR Doc. 87-22616 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-07-4220-11: GP-07-300; OR-2031, ORE-015085, ORE-015240, ORE-04043]

#### Proposed Continuation of Withdrawals; Oregon

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service proposes that all or portions of four separate land withdrawals continue for an additional 20 years and requests that the lands involved remain closed to mining and, where closed, be opened to surface entry.

**FOR FURTHER INFORMATION CONTACT:** Champ Vaughan, BLM Oregon State Office, P.O. Box 2965, Portland, Oregon 97208, 503-231-6905).

The Forest Service proposes that the following identified land withdrawals be continued for a period of 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The following described lands and projects are involved:

#### Siuslaw National Forest

1. ORE 04043, Public Land Order No. 1546 of November 7, 1957, Cummins Peak Administrative Site, 80 acres, Located in Lane County, approximately 20 miles northeast of Florence,  
T. 15 S., R. 11 W., W.M.,  
Sec. 27.  
Rock Creek Camp Administrative Site, 160 acres, Located in Lane County, approximately 15 miles north of Florence,  
T. 16 S., R. 12 W., W.M.,  
Sec. 10.

#### Umpqua National Forest

2. OR 2031, Public Land Order No. 4369 of February 19, 1968, Fairview Mountain Lookout Tract A, 0.22 acres, Located in Lane County, approximately 40 miles southeast of Eugene,  
T. 23 S., R. 1 E., W.M.,  
Sec. 14.

#### Rogue River National Forest

3. ORE 015085, Public Land Order No. 3497 of December 8, 1964, Beaver Sulphur Campground, 20 acres, Located in Jackson County, approximately 15 miles southwest of Medford.



T. 40 S., R. 3 W., W.M.,  
Sec. 3 and 11.

Mill Creek Administrative Site, 20 acres,  
Located in Jackson County, approximately 40  
miles northeast of Medford,

T. 31 S., R. 3 E., W.M.,  
Sec. 33.

Bessie Creek Campground, 30 acres,  
Located in Jackson County, approximately 40  
miles northeast of Medford,

T. 32 S., R. 4 E., W.M.,  
Sec. 25

Willow Prairie Campground, 30 acres,  
Located in Jackson County, approximately 25  
miles east of Medford,

T. 36 S., R. 4 E., W.M.,  
Sec. 30.

4. ORE 015240, Public Land Order No. 3497  
of December 2, 1964, Bear Camp Lookout and  
Campground, 20 acres, Located in Curry and  
Josephine Counties, approximately 27 miles  
northwest of Grants Pass,  
T. 34 S., R. 10 W., W.M.,  
Sec. 12.

Johnson Mountain Lookout, 5 acres,  
Located in Coos County, approximately 20  
miles northeast of Port Orford,

T. 32 S., R. 12 W., W.M.,  
Sec. 3.

Wildhorse Lookout, 5 acres, Located in  
Curry County, approximately 12 miles  
northeast of Gold Beach,

T. 36 S., R. 12 W., W.M.,  
Sec. 7.

Snow Camp Lookout, 20 acres, Located in  
Curry County, approximately 12 miles  
southeast of Gold Beach,

T. 37 S., R. 12 W., W.M.,  
Sec. 30.

Big Pine Camp Ground, 50 acres, Located in  
Josephine County, approximately 18 miles  
west of Grants Pass,

T. 38 S., R. 8 W., W.M.,  
Sec. 8

Onion Mountain Lookout, 10 acres, Located in  
Josephine County, approximately 15 miles  
west of Grants Pass,

T. 36 S., R. 8 W., W.M.,  
Sec. 11.

Elk Lake Campground, 20 acres, Located in  
Curry County, approximately 15 miles  
southeast of Port Orford,

T. 33 S., R. 13 W., W.M.,  
Secs. 24 and 25.

Quosatana Archaeological Area, 150 acres,  
Located in Curry County, approximately 9  
miles east of Gold Beach,

T. 36 S., R. 13 W., W.M.,  
Secs. 27 and 34.

The withdrawals currently segregate  
the lands from operation of the mining  
laws, and some of the lands are closed  
to operation of the public land laws  
generally. The Forest Service requests  
no changes in the purpose or segregative  
effect of the withdrawals except that the  
lands be opened to operation of the  
public land laws generally where they  
are presently closed.

For a period of 90 days from the date of  
publication of this notice, all persons who  
wish to submit comments, suggestions, or

objections in connection with the proposed  
withdrawal continuations may present their  
views in writing to the undersigned officer at  
the address specified above.

The authorized officer of the Bureau of  
Land Management will undertake such  
investigations as are necessary to determine  
the existing and potential demand for the  
lands and their resources. A report will also  
be prepared for consideration by the  
Secretary of the Interior, the President and  
Congress, who will determine whether or not  
the withdrawals will be continued and if so,  
for how long. The final determination on the  
continuation of the withdrawals will be  
published in the Federal Register. The  
existing withdrawals will continue until such  
final determination is made.

**Robert E. Molloy**

*Acting Chief, Branch of Lands and Minerals  
Operations.*

Dated: September 22, 1987.

[FR Doc. 87-22617 Filed 9-30-87; 87: 8:45 am]

**BILLING CODE 4310-33-M**

[OR-943-07-4220-11: GP-07-297; OR-  
22107(WASH), OR-22108(WASH), WASH-  
01220-A, OR-1295(WASH), OR-  
5049(WASH), WASH-04290, OR-  
1293(WASH)]

### **Proposed Continuation of Withdrawal; Washington**

**ACTION:** Bureau of Land Management,  
Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of  
Agriculture, Forest Service proposes  
that all or portions of seven separate  
land withdrawals continue for an  
additional 20 years and requests that the  
lands involved remain closed to mining  
and, where closed, be opened to surface  
entry.

**FOR FURTHER INFORMATION CONTACT:**  
Champ Vaughan, BLM Oregon State  
Office, P.O. Box 2965, Portland, Oregon  
97208, 503-231-6905.

The Forest Service proposes that the  
following identified land withdrawals be  
continued for a period of 20 years  
pursuant to section 204 of the Federal  
Land Policy and Management Act of  
1976, 90 Stat. 2751, 43 U.S.C. 1714. The  
following described lands and projects  
are involved:

#### **Mt. Baker National Forest**

1. OR 22107(WASH), Secretarial Order of  
October 24, 1908. French Creek  
Administrative Site, 30 acres. Located in  
Snohomish County, 17 miles northeast of  
Arlington.

T. 32 N., R. 8 E., W.M.,  
24 Sec. 15.

2. OR 22108(WASH), Secretarial Order of  
November 23, 1906. Station 43, 40 acres.  
Located in Snohomish County, 20 miles  
southeast of Arlington.

T. 30 N., R. 8 E., W.M.,  
Sec. 23.

#### **Snoqualmie National Forest**

3. WASH 01220-A, Public Land Order No.  
1710 of August 6, 1958. Snoqualmie Pass-  
Denny Creek Recreation Areas, 1,322.12  
acres. Located in King and Kittitas Counties,  
55 miles northeast of Tacoma.

T. 22 N., R. 11 E., W.M.

Sec. 4, 5, and 8 and T. 23 N., R. 11 E., W.M.,  
Sec. 34.

4. OR 1295(WASH), Public Land Order No.  
4568 of January 16, 1969. South Fork  
Snoqualmie (Alpental) Recreation Area,  
2,679.56 acres. Located in King County, 50  
miles northeast of Tacoma.

T. 23 N., R. 10 E., W.M.,

Sec. 24; and T. 23 N., R. 11 E., W.M.,  
Secs. 19, 20, 21, and 28 through 33 inclusive.

5. OR 5049(WASH), Public Land Order No.  
4840 of June 1, 1970. Snoqualmie Pass-Denny  
Creek Recreation Area Addition, 264.78  
acres. Located in King County, 55 miles  
northeast of Tacoma.

T. 22 N., R. 11 E., W.M.,

Secs. 5 and 8.

#### **Kaniksu National Forest**

6. WASH 04290, Public Land Order No.  
3202 of August 19, 1963. South Skookum Lake  
Campground, 50 acres. Located in Pend  
Oreille County, 20 miles northwest of  
Newport.

T. 33 N., R. 44 E., W.M.,  
Sec. 1.

7. OR 1293(WASH), Public Land Order No.  
4319 of November 14, 1967. Pioneer Park  
Campground, 37.10 acres. Located in Pend  
Oreille County, 3 miles north of Newport.

T. 31 N., R. 45 E., W.M.,  
Sec. 1.

The withdrawals currently segregate  
the lands from operation of the mining  
laws, and some of the lands are closed  
to operation of the public land laws  
generally. The Forest Service requests  
no changes in the purpose or segregative  
effect of the withdrawals except that the  
lands be opened to operation of the  
public land laws generally where they  
are presently closed.

For a period of 90 days from the date  
of publication of this notice, all persons  
who wish to submit comments,  
suggestions or objections in connection  
with the proposed withdrawal  
continuations may present their views in  
writing to the undersigned officer at the  
address specified above.

The authorized officer of the Bureau  
of Land Management will undertake  
such investigations as are necessary to  
determine the existing and potential  
demand for the lands and their  
resources. A report will also be  
prepared for consideration by the  
Secretary of the Interior, the President  
and Congress, who will determine



whether or not the withdrawals will be continued and if so, for how long. The final determination on the continuation of the withdrawals will be published in the **Federal Register**. The existing withdrawals will continue until such final determination is made.

**B. Lavelle Black,**

*Chief, Branch of Lands and Minerals Operations.*

Dated: September 18, 1987.

[FR Doc. 87-22618 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-33-M

### Meeting; Ukiah, CA, District Advisory Council

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting, Ukiah, California, District Advisory Council.

**SUMMARY:** Pursuant to Pub. L. 94-579 and 43 CFR Part 1780, the Ukiah District Advisory Council will meet in Arcata, Monday, October 26, 1987. The meeting will include a field trip to public lands on the Samoa Peninsula.

**DATE:** The meeting will begin at 9:00 a.m. and adjourn at 4:00 p.m. Monday, October 26, 1987.

**ADDRESS:** The meeting will be held at the Bureau of Land Management Office, 1125 16th Street, Arcata, California.

**FOR FURTHER INFORMATION CONTACT:** Barbara Taglio, Ukiah District Office, Bureau of Land Management, 555 Leslie Street, Ukiah, California 95482, (707) 462-3873.

**SUPPLEMENTARY INFORMATION:** The Samoa Peninsula is an area of public land currently being studied by BLM in the Arcata Resource Management Plan. An off-road vehicle use area is proposed within this 300-acre area. Approximately 40 acres of rare plant habitat and 90 acres of wetlands are also found here.

The meeting is open to the public. Individuals may submit oral or written comments for the Council's consideration. Opportunity for oral comments will be provided at 1:30 p.m. Summary minutes of the meeting will be maintained by the Ukiah District Office and will be available for inspection and reproduction within 30 days of the meeting.

Date: September 23, 1987.

**Alfred W. Wright,**

*District Manager.*

[FR Doc. 87-22607 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-40-M

[AZ-940-07-4212-13; A-22539]

### Realty Action; Arizona

September 24, 1987.

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of conveyance.

**SUMMARY:** This action informs the public of the completion of an exchange between the United States and AMCOR Investments Corporation of California. The United States acquired 27,426.89 acres in Mohave County and AMCOR Investments Corporation of California acquired 1,366.32 acres in Maricopa County.

**FOR FURTHER INFORMATION CONTACT:** Marsha Luke, Arizona State Office, P.O. Box 16563, Phoenix, Arizona 85011. Telephone (602) 241-5534.

**SUPPLEMENTARY INFORMATION:** On July 16, 1987, the Bureau of Land Management transferred the following described land by Patent No. 02-87-0036 and Deed No. AZ-87-005, pursuant to the Federal Land Policy and Management Act of October 21, 1976:

**Gila and Salt River Meridian, Arizona**

T. 1 S., R. 2 W.,  
Sec. 12, lots 13-16, incl.;  
Sec. 13, lots 1-3, incl., lots 6-11, incl., lots 15-17, incl., lots 20, 21 and lots 24-26 incl.;  
Sec. 24, NE $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 25, SE $\frac{1}{4}$ ;  
Sec. 36, NW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ .

Comprising 1,366.32 acres in Maricopa County.

In exchange the surface in the following described land was conveyed to the United States.

**Gila and Salt River Meridian, Arizona**

T. 25 N., R. 21 W.,  
Sec. 1, lot 1, except S $\frac{1}{2}$ S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , lots 2, 3, 4, N $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ S E $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ N E $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ E $\frac{1}{2}$ S W $\frac{1}{4}$ NW $\frac{1}{4}$ , E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$ S E $\frac{1}{4}$ NW $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ S $\frac{1}{2}$ S E $\frac{1}{4}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 3, lots 1-4, incl., S $\frac{1}{2}$ NW $\frac{1}{4}$ , SW $\frac{1}{4}$ , W $\frac{1}{2}$ SE $\frac{1}{4}$ , SE $\frac{1}{4}$ SE $\frac{1}{4}$ ;  
Sec. 11, SE $\frac{1}{4}$ ;  
Sec. 13, NW $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ ;  
Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;  
Sec. 23, N $\frac{1}{2}$ , N $\frac{1}{2}$ S $\frac{1}{2}$ , SW $\frac{1}{4}$ SW $\frac{1}{4}$ .  
T. 25 N., R. 22 W.,

Sec. 3, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;  
Sec. 11, all;  
Sec. 15, all;  
Sec. 23, all.

T. 26 N., R. 20 W.,

Sec. 20, N $\frac{1}{2}$ .

T. 26 N., R. 21 W.,

Sec. 21, N $\frac{1}{2}$ , SE $\frac{1}{4}$ .

T. 28 N., R. 16 W.,

Sec. 3, lots 1-3, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ .

Sec. 9, N $\frac{1}{2}$ , N $\frac{1}{2}$ SW $\frac{1}{4}$ , W $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ .

E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ .

T. 28 N., R. 17 W.,

Sec. 1, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 11, all, except the North 50 feet of the West 50 feet as dedicated by instrument recorded in Book 183 Page 561 of Mohave County;

Sec. 13, all;

Sec. 15, all;

T. 29 N., R. 15 W.,

Sec. 5, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 7, lots 1-4, incl., E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$ ;

Sec. 9, lots 1-4, incl.;

Sec. 19, lots 1-4, incl., E $\frac{1}{2}$ W $\frac{1}{2}$ , E $\frac{1}{2}$ .

T. 29 N., R. 16 W.,

Sec. 1, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 3, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 5, lots 1-4, incl., S $\frac{1}{2}$ N $\frac{1}{2}$ , S $\frac{1}{2}$ ;

Sec. 7, E $\frac{1}{2}$ ;

Sec. 9, all;

Sec. 11, all;

Sec. 13, all;

Sec. 15, all;

Sec. 17, all;

Sec. 19, lots 2-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ ;

Sec. 21, all;

Sec. 23, all;

Sec. 25, all;

Sec. 35, all.

T. 29 N., R. 17 W.,

Sec. 35, S $\frac{1}{2}$ , except Pierce Ferry Road, as dedicated by instrument recorded in Book 283 of Official Records, Page 282 and a strip of land 50 feet in width, lying immediately North of the following described line: Beginning at a point on the South line of Section 35, which is fifty feet East of the Northeast corner of Section 3, T. 28 N., R. 17 W. of the Gila and Salt River Base and Meridian, Mohave County, Arizona. Thence West, along said South line of Section 35, approximately 2000 feet to a point of intersection with the centerline of Pierce Ferry Road as it exists on December 28, 1973, as dedicated by instrument recorded in Book 188 of Official Records, Page 204.

T. 30 N., R. 15 W.,

Sec. 19, lots 1-3, incl., W $\frac{1}{2}$  lot 4,

SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

S $\frac{1}{2}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ .

S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ , E $\frac{1}{2}$ NW $\frac{1}{4}$ .

E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$ , SE $\frac{1}{4}$ ;

Sec. 29, E $\frac{1}{2}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ ;

Sec. 31, lots 1-4, incl., E $\frac{1}{2}$ , E $\frac{1}{2}$ W $\frac{1}{2}$ .

T. 30 N., R. 16 W.,

Sec. 9, all;

Sec. 11, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ SE $\frac{1}{4}$

NW $\frac{1}{4}$ NE $\frac{1}{4}$ , SW $\frac{1}{4}$ NE $\frac{1}{4}$ , NW $\frac{1}{4}$ SW $\frac{1}{4}$

SE $\frac{1}{4}$ NE $\frac{1}{4}$ , S $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$ , W $\frac{1}{2}$ ,

NW $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ,

NW $\frac{1}{4}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ SE $\frac{1}{4}$ , NW $\frac{1}{4}$ NE $\frac{1}{4}$ N

E $\frac{1}{2}$ SE $\frac{1}{4}$ , S $\frac{1}{2}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ ;



Sec. 15, all;  
Sec. 17, all;  
Sec. 19, E½;  
Sec. 21, all;  
Sec. 27, all;  
Sec. 33, all;  
Sec. 35, all.

Comprising 27,426.89 acres in Mohave County.

The purpose of this notice is to inform the public and interested Government officials of the exchange of public and private land.

The surface of the land acquired by the United States in this exchange will be administered by the Bureau of Land Management. The mineral estate in the reconveyed lands remains out of Federal ownership.

John T. Mezes,  
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-22596 Filed 9-30-87; 8:45 am]  
BILLING CODE 4310-32-M

[CA-940-07-5410-10-ZBJA; CA 20061]

**Realty Action; Conveyance of Mineral Interest in California**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action; conveyance of the reserved mineral interest.

**SUMMARY:** The private lands described in this order were examined for suitability for conveyance of the reserved mineral interest pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

**FOR FURTHER INFORMATION CONTACT:** Lavonia Silva, California State Office, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Federal Office Building, Sacramento, California 95825, (916) 978-4815.

At 10:00 a.m. on November 2, 1987, the segregative effect imposed by the Notice of Realty Action published in the *Federal Register*, June 9, 1987, Vol. 52, p. 21771, for conveyance of the reserved mineral interest under application CA 20061, will be lifted from the following described lands:

**Mount Diablo Meridian**

T. 14 N., R. 6 W.,  
Sec. 19, Lots 2 and 3  
Lot 4, except M&B.  
T. 14 N., R. 7 W.,  
Sec. 24, SE¼NE¼, except M&B.  
Acres—158.13+.  
County—Lake.  
Reservation—100% All Minerals.

Date: September 23, 1987.

Nancy J. Alex,  
Chief, Lands Section, Branch of Adjudication and Records.

[FR Doc. 87-22612 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-40-M

[CA-940-07-5410-10-ZBJF; CA 20375]

**Realty Action; Conveyance of Mineral Interests in California**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of realty action; conveyance of the reserved mineral interests.

**SUMMARY:** The private lands described in this notice will be examined for suitability for conveyance of the reserved mineral interests pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976.

The mineral interests will be conveyed in whole or in part upon favorable mineral examination.

**FOR FURTHER INFORMATION CONTACT:** Lavonia Silva, California State Office, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Federal Office Building, Sacramento, California 95825, (916) 978-4815.

**Mount Diablo Meridian**

T. 3 S., R. 17 E.,  
Sec. 19, Lot 15;  
Sec. 20, SW¼SW¼;  
Sec. 28, N¼SW¼, NW¼SE¼, W¼NE¼;  
Sec. 29, Lots 1 thru 12, SE¼SW¼,  
SW¼SE¼.  
639.09 acres.  
County—Mariposa.  
Mineral Reservation—All.

Upon publication of this Notice of Realty Action in the *Federal Register* as provided in 43 CFR 2720.1-1(b), the mineral interests owned by the United States in the private lands covered by the application shall be segregated to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. The segregative effect of the application shall terminate by publication of an opening order in the *Federal Register* specifying the date and time of opening; upon issuance of a patent or other document of conveyance to such mineral interests; or two years from the date of filing of the application, whichever occurs first.

Date: September 23, 1987.

Nancy J. Alex,  
Chief, Lands Section Branch of Adjudication and Records.

[FR Doc. 87-22611 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-40-M

[U-55673; U-61448; UT-040-7-4212-14]

**Realty Action; Sale of Public Lands in Beaver County, UT**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Under section 203 of the Federal Land Policy and Management Act of 1976 (43 USC 1713), two parcels of public land described as S½ SE¼ NW¼ Sec. 23, T. 29 S., R. 8 W., SLM, Utah containing 20 acres more or less (Parcel 1, U-61448) and SW¼ SE¼, SE¼ SW¼, Sec. 14 and NE¼ NW¼, N½ SE¼ NW¼ Sec. 23, T. 29 S. R 8 W., SLM, Utah containing 140 acres more or less (Parcel 2, U-55673) are proposed for sale by competitive bidding at no less than the appraised fair market value of \$5,000.00 for Parcel 1 and \$21,000.00 for Parcel 2. The lands described are hereby segregated from all forms of appropriation under the public land laws, including the mining laws, pending disposition of this action.

**SUMMARY:** The purpose of the sale is to dispose of public land that is difficult and uneconomical to manage by a government agency.

**DATES:** Comments should be submitted by November 17, 1987. The sale will be held on December 1, 1987 at 10:00 a.m.

**ADDRESS:** Detailed information concerning the sale, including bidding procedures, is available at the Beaver River Resource Area Office, 444 South Main Street, Cedar City, Utah 84720, (801) 586-2458. The Beaver River Resource Area Office is also the location of the sale and the address to which comments should be sent.

**SUPPLEMENTARY INFORMATION:** The terms and conditions applicable to the sale are:

1. The mineral estate shall be retained in Federal ownership, with the right to prospect for, mine, and remove the same under applicable law and such regulations as the Secretary may prescribe.

2. A right-of-way thereon shall be reserved for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

3. An access right-of-way 66 feet in width shall be reserved along the east boundary of Parcel 1 from the Utah Highway 21 north to Parcel 2.

4. Title transfer will be subject to valid existing rights, including oil and gas lease U-52973 on both parcels and rights-of-way U-0147757 and U-037441 on Parcel 1



Unsold parcels will be offered competitively on a continuing basis until sold or withdrawn from the market at the Beaver River Resource Area Office. Sale will be by sealed bid. Sealed bids will be opened on the first and third Tuesdays of each month at 10:00 a.m. All bids must be received at the office no later than 4:30 p.m. on the day before the sale.

Any comments received during the comment period will be evaluated and the State Director may vacate or modify this realty action. In the absence of any objections, this realty action notice will be the final determination of the Department of the Interior.

Date: September 21, 1987.

Paul W. Swapp,

Acting District Manager

[FR Doc. 87-22614 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-DQ-M

[MT-920-07-4111-11; MTM 64858]

#### Proposed Reinstatement of Terminated Oil and Gas Lease

Under the provisions of Pub. L. 97-451,

a petition for reinstatement of oil and gas lease MTM 64858, Petroleum County, Montana, was timely filed and accompanied by the required rental accruing from the date of termination.

No valid lease has been issued affecting the lands. The lessee has agreed to new lease terms for rentals and royalties at rates of \$5 per acre and 16% respectively. Payment of a \$500 administration fee has been made.

Having met all the requirements for reinstatement of the lease as set out in section 31 (d) and (e) of the Mineral Lands Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective as of the date of termination, subject to the original terms and conditions of the lease, the increased rental and royalty rates cited above, and reimbursement for cost of publication of this Notice.

Dated: September 24, 1987.

Karen L. Skaug

Acting Chief Fluids Adjudication Section

[FR Doc. 87-22597 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-DN-M

[ID-010-07-4212-14; I-20590, I-20598, I-20599]

#### Realty Action; Sale of Public Land in the Boise and Gem Counties, ID

AGENCY: Bureau of Land Management, Idaho.

ACTION: Notice of action—Amendment of the Black Canyon Management Framework Plan (MFP), and the McCall Unit Resource Analysis (URA)/Notice of Realty Action, Sale of Public Land in Boise and Gem Counties, Idaho.

NOTICE: Notice is hereby given that the BLM has amended the Black Canyon MFP to allow for sale of certain public lands in Gem County, Idaho. Notice is further hereby given that the BLM has amended the McCall Unit Resource Analysis to allow for sale of certain public lands in Boise County, Idaho. SUMMARY: The following-described parcels have been examined and through the public-supported land use planning process have been determined to be suitable for direct sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at not less than the appraised fair market value as determined by an appraisal:

Parcel	Legal description	Offered to	Fair market value
I-20590	T. 8 N., R. 4 E., B.M., sec. 15, lot 2, (.03 acres)	Mrs. Virginia Hamilton-Durland	\$150.00
I-20598	T. 6 N., R. 3 W., B.M., sec. 14, lots 8, 9, (3.47 acres)	Joseph & Patricia Bennie	1,040.00
I-20599	T. 6 N., R. 3 W., B.M., sec. 10, lot 1, (1.67 acres)	Toivo W. Makela	500.00

**DATES:** The sale offering will be held on Tuesday, December 1, 1987, at 10:00 a.m.

The previously-described lands are hereby segregated from appropriation under the public land laws including the mining laws for a period of 270 days or until patent is issued, whichever comes first.

**ADDRESS:** The sale of offering will be held at the BLM Boise District Office, 3948 Development Avenue, Boise, Idaho 83705.

**FOR FURTHER INFORMATION CONTACT:** Detailed information concerning the conditions of the sale can be obtained by contracting Delores Blom or Dick Geier at (208) 334-1582.

**SUPPLEMENTARY INFORMATION:** When patented, the lands will be subject to the following reservations:

#### Parcel and Reservations

I-20590

1. Ditches and canals

I-20598, I-20599

1. Ditches and canals

2. Oil and gas resources.

Sale parcel I-20590 is being offered directly to Mrs. Virginia Hamilton-Durland as a result of inadvertent unauthorized use of public land on which a portion of a cabin sits.

Sale parcel I-20598 is being offered directly to Joseph and Patricia Bennie and sale parcel I-20599 is being offered directly to Toivo W. Makela because of inadvertent unauthorized use of public land between private land and the Black Canyon Canal and also the lack of legal access.

Each bid deposit must be at least 30 percent (30%) of fair market value. Acceptance of the direct sale offer will constitute an application for conveyance of the mineral estate. An additional \$50.00 non-returnable mineral conveyance processing fee is required. The filing fee and deposit must be paid by certified check, money order, bank draft, or cashier's check. Offers will be rejected if accompanied by a personal check.

The remainder of the full price shall be paid within 180 days of the date of

the sale. Failure to pay the full price within the 180 days shall disqualify the purchaser and cause the bid deposit to be forfeited to the BLM.

It has been determined that sale parcel I-20590 contain no known locatable or saleable mineral values. The parcel is considered to be potentially valuable for geothermal resources, but due to its small size these resources have no additional value other than that of the land. Conveyance of the mineral estate will occur simultaneously with the sale of the land.

It has been determined that sale parcels I-20598 and I-20599 contain no known locatable or saleable mineral values. Conveyance of the mineral estates of no known value will occur simultaneously with the sale of the land.

#### Planning Protest

Any party that participated in the plan amendment and is adversely affected by these amendments may protest this action only as it affects issues submitted for the record during



the planning process. The protest shall be in writing and filed with the Director (760), Bureau of Land Management, 1800 C Street, NW., Washington, DC 20240, within 30 days of the date of publication of this notice in the **Federal Register**.

#### Sale Comment

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments regarding the sale to the District Manager, Bureau of Land Management, 3948 Development Avenue, Boise, Idaho 83705. Objections will be reviewed by the State Director who may sustain, vacate, or modify this realty action. In the absence of any planning protests or objections regarding the sale, this realty action will become the final determination of the Department of the Interior and the planning amendments will be effective.

Dated: September 16, 1987.

Gene L. Schloemer,

Associate District Manager.

[FR Doc. 87-22021 Filed 9-25-87; 8:45 am]

BILLING CODE 4310-GG-M

[CO-942-06-4520-12]

#### Filing of Plats of Survey; Colorado

September 24, 1987.

The supplemental plat showing a subdivision of original lots 1 and 2, section 4, T. 40 N., R. 4 W., New Mexico Principal Meridian, Colorado was accepted September 9, 1987.

This supplemental plat was prepared to meet certain administrative needs of the U.S. Forest Service.

The supplemental plat correcting the erroneous lot in the NW 1/4 NE 1/4 NW 1/4 of section 20, T. 5 S., R. 76 W., Sixth Principal Meridian, Colorado was accepted September 9, 1987.

This supplemental plat was prepared to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Jack A. Eaves,

Chief, Cadastral Surveyor for Colorado.

[FR Doc. 87-22595 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-JB-M

#### Fish and Wildlife Service

##### Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the

Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.):

PRT-719658

Applicant: Cedar Grove Farm, Stillwater, MN

The applicant requests a permit to import one female snow leopard (*Panthera uncia*) from the Assiniboine Zoo, Winnipeg, Manitoba, Canada, for captive breeding.

PRT-721273

Applicant: National Zoo, Washington, DC

The applicant requests a permit to import one male maned wolf (*Chrysocyon brachyurus*) born in the wild in Brazil and now held in captivity at Curitiba Zoo, Curitiba, Parana, Brazil. The import would introduce a new bloodline into the United States population and enhance the propagation of the species.

PRT-721599

Applicant: San Diego Zoological Society, San Diego, CA

The applicant requests a permit to import two male and three female captive born North China sika deer (*Cervus nippon mandarinus*) from the Chengdu Zoo, People's Republic of China, for the purpose of establishing a captive breeding population in North America.

PRT-721784

Applicant: James R. Grimm, Paradise Valley, AZ

The applicant requests a permit to import a sport-hunted trophy of a bontebok (*Damaliscus dorcas dorcas*), culled from the captive herd of Mr. F.W.M. Bowker, Jr., Grahamstown, Republic of South Africa, for the purpose of enhancement of survival of the species.

PRT-721703

Applicant: San Antonio Zoological Gardens and Aquarium, San Antonio, TX

The applicant requests a permit to purchase in interstate commerce one captive born male jaguarundi (*Felis yagouaroundi*) from the Woodland Park Zoological Gardens, Seattle, Washington, for the purpose of captive propagation and exhibition.

PRT-721795

Applicant: Lowery Park Zoological Gardens, Tampa, FL

The applicant requests a permit to import one female captive-born Malayan tapir (*Tapirus indicus*) from the Metropolitan Toronto Zoo, Toronto, Ontario, Canada, for enhancement of the propagation of the species through captive breeding.

PRT-721706

Applicant: Marine World Foundation, Vallejo, CA

The applicant requests a permit to import one male and two female Asian elephants (*Elephas maximus*) from the Timber Corporation, Rangoon, Burma, for the purpose of enhancement of propagation of the species through captive breeding and enhancement of survival of the species through conservator education. All of these elephants were born in captivity in a Timber Corporation logging camp.

PRT-721707

Applicant: International Animal Exchange, Ferndale, MI

The applicant requests a permit to import two female white Bengal tigers (*Panthera tigris tigris*) from the Nandankanan Biological Park, Bhubneshwar, Orissa, India, for the purpose of enhancement of the propagation and survival of the species through captive propagation, public exhibition and education.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) Room 611, 1000 North Glebe Road, Arlington, Virginia 2201, or by writing to the Director, U.S. Fish and Wildlife Service of the above address.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate applicant and PRT number when submitting comments.

Dated: September 25, 1987.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 87-22604 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-55-M

#### Minerals Management Service

##### Meeting; Outer Continental Shelf Advisory Board, North Atlantic Regional Technical Working Group

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Meeting of North Atlantic Regional Technical Working Group Committee.

SUMMARY: The Atlantic Outer Continental Shelf (OCS) Region has scheduled a meeting of its North Atlantic Regional Technical Working Group (NARTWG) Committee. The



committee will provide input to the Regional Director, Atlantic OCS Region on the focus of the draft environmental impact statement (DEIS) for proposed Oil and Gas Lease Sale 96 (North Atlantic). The roundtable discussion will include topics such as area to be analyzed in the DEIS, leasing alternatives, Georges Bank moratorium, Canadian portion of Georges Bank, Fisheries Training Program, and the Environmental Studies Program.

**DATE:** October 29, 1987.

**ADDRESSES:** The meeting will begin at 9 a.m. at the following location: Town Room, Holiday Inn—Albany—Central, 1614 Central Avenue, Albany, New York 12205.

The Atlantic OCS Region is at the following location: Minerals Management Service, Atlantic OCS Region, 1951 Kidwell Drive, Suite 601 Vienna, Virginia 22180.

**FOR FURTHER INFORMATION CONTACT:** Marsha Polk, RTWG Coordinator, Atlantic OCS Region, at the Virginia address above, telephone (703) 285-2165 or FTS 285-2165.

**SUPPLEMENTARY INFORMATION:** The NARTWG is part of the OCS Advisory Board and was established to advise the Minerals Management Service Director on technical matters of Regional concern regarding offshore prelease and postlease sale activities in the North Atlantic. The NARTWG membership consists of representatives from Federal Agencies, the Coastal States of Maine through New Jersey, the petroleum industry, and other private interests.

Federal Advisory Committee Act (Public Law 92-463)

Dated: September 25, 1987.

Bruce G. Weetman,

*Regional Director, Atlantic OCS Region.*

[FR Doc. 87-22595 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-MR-M

#### **Development Operations Coordination Document; Odeco Oil and Gas Co.**

**AGENCY:** Minerals Management Service, Interior.

**ACTION:** Notice of receipt of a proposed Development Operations Coordination Document (DOCD).

**SUMMARY:** Notice is hereby given that ODECO Oil and Gas Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 8749, Block 106, Main Pass Area, offshore Mississippi. Proposed plans for the above area provide for the development and production of hydrocarbons with

support activities to be conducted from and onshore base located at Venice, Louisiana.

**DATE:** The subject DOCD was deemed submitted on September 22, 1987. Comments must be received within 15 days of the date of this Notice of 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

**ADDRESSES:** A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

**FOR FURTHER INFORMATION CONTACT:** Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736-2876.

**SUPPLEMENTARY INFORMATION:** The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685).

Those practices and procedures are

set out in revised § 250.34 of Title 30 of the CFR.

Dated: September 23, 1987.

J. Rogers Percy,

*Regional Director, Gulf of Mexico OCS Region.*

[FR Doc. 87-22594 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-MR-M

#### **National Park Service**

#### **Availability of Final Environmental Impact Statement; Sequoia-Kings Canyon National Parks, CA and NV**

**SUMMARY:** Pursuant to section 102(2)(C) of the National Environmental Policy Act, the National Park Service, Department of the Interior has prepared a final environmental impact statement for the Development Concept Plan for the Grant Grove and Redwood Mountain areas of Sequoia-Kings Canyon National Parks in Fresno and Tulare Counties, California.

Four alternatives have been examined ranging from no action (health and safety measures only) to developing low-profile units or a hotel or combination of hotel and dispersed units. The proposed action recommends rehabilitation of some existing units, construction of new one and two story units removed from the Grant Grove meadow; relocation of other visitor support facilities away from the meadow; consolidation and upgrading of employee housing; expanding administrative and maintenance space; improving access, circulation and visitor facilities at several critical sites; and leaving Redwood Mountain essentially undeveloped.

**DATES:** The 30 day no action period following the Environmental Protection Agency's notice of availability of the final EIS will end on or about November 9, 1987.

**ADDRESSES:** Inquiries on the FEIS should be directed to: Superintendent, Sequoia-Kings Canyon National Parks, Three Rivers, California 93271.

Copies of the FEIS are available for inspection at the park headquarters in Three Rivers, the Grant Grove Visitor Center and in libraries in the park vicinity. Copies are also available at the following addresses: Western Regional Office, National Park Service, Attn: Division of Planning, Grants, and Environmental Quality, P.O. Box 36063, 450 Golden Gate Avenue, Room 14033, San Francisco, California 94102.



Date: September 11, 1987.

Stanley T. Albright,

Regional Director, Western Region, National  
Park Service.

[FR Doc. 87-21950 Filed 9-30-87; 8:45 am]

BILLING CODE 4310-70-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### National Marine Fisheries Service

### Marine Mammals; Issuance of Permit

On July 17, 1987, 52 FR 27067 and corrected August 7, 1987, 52 FR 29407 Notice was published in the *Federal Register* that an application had been filed with the National Marine Fisheries Service, and Fish and Wildlife Service by the USSR Ministry of Fisheries, All-Union Scientific Institute of Fisheries and Oceanography, Moscow, USSR, for a permit to take by killing 200 Pacific walrus (*Odobenus rosmarus*) and 200 bearded seal (*Erignathus barbatus*), for the purpose of scientific research.

Notice is hereby given that on September 15, 1987, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service and Fish and Wildlife Service jointly issued a Scientific Research Permit to the USSR Ministry of Fisheries for the above taking subject to certain conditions set forth therein.

The Permit and related documents are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 1825 Connecticut Avenue NW., Washington, DC;

Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska 99802; and

Director, Fish and Wildlife Service, U.S. Department of the Interior, 18th and C Street NW., Washington, DC 20240.

Dated: September 16, 1987.

Dr. Nancy Foster,

Director, Office of Protected Resources and  
Habitat Programs, National Marine Fisheries  
Service.

Dated: September 16, 1987.

Richard K. Robinson,

Chief, Branch of Permits, Federal Wildlife  
Permit Office.

[FR Doc. 87-22533 Filed 9-30-87; 8:45 am]

BILLING CODE 3510-22-M

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-343 (Final)]

### Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers From Japan

#### Determination

On the basis of the record<sup>1</sup> developed in the subject investigation, the Commission unanimously determines, pursuant to section 735(b)(1) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)(1)), that an industry in the United States is materially injured by reason of imports from Japan of tapered roller bearings and parts thereof, and certain housings incorporating tapered rollers, all the foregoing provided for in items 680.3040, 680.3932, 680.3934, 680.3938, 680.3940, 681.1010, or 692.3295 of the Tariff Schedules of the United States annotated, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

#### Background

The Commission instituted this investigation effective March 23, 1987, following a preliminary determination by the Department of Commerce that imports of the subject merchandise from Japan are being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the *Federal Register* of April 8, 1987 (52 FR 11347). The hearing was held in Washington, DC, on May 12, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on September 23, 1987. The views of the Commission are contained in USITC Publication 2020 (September 1987), entitled "Tapered Roller Bearings and Parts Thereof, and Certain Housings Incorporating Tapered Rollers from Japan: Determination of the Commission in Investigation No. 731-TA-343 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: September 23, 1987.

<sup>1</sup> The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-22650 Filed 9-30-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-253]

### Import Investigations; Certain Electrically Resistive Monocomponent Toner and "Black Powder" Preparations Therefor

AGENCY: U.S. International Trade  
Commission.

ACTION: Decision to grant in part a request for an extension of time in which to certify the record in this investigation to the Commission and to file with the Commission an initial determination as to whether there is a violation of section 337 of the Tariff Act of 1930.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant in part a request, made by Order No. 49 of the presiding administrative law judge (ALJ), to extend the deadline for issuance of the ALJ's final initial determination in this investigation. The deadline is extended by 21 days, to November 10, 1987.

FOR FURTHER INFORMATION CONTACT: Edwin J. Madaj, Jr., Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0148.

SUPPLEMENTARY INFORMATION: This investigation had previously been declared "more complicated" and the deadline for completion of the investigation extended to the full 18 months permitted by statute. On September 18, 1987, the presiding administrative law judge (ALJ) issued an order, Order No. 49, requesting leave to issue his final initial determination (ID) on November 20, 1987, 31 days after the deadline contemplated by Commission rule 210.53(a), which is October 20, 1987. The bases for the request were essentially that the ALJ had erroneously believed the deadline had been extended by the Commission, and that the investigation had proceeded to a point where it would be virtually impossible to issue a well-reasoned ID by the existing deadline, October 20, 1987. Because the statutory deadline had already been extended to the full 18 months permitted by statute for more complicated cases, any extension of time to issue the ID would come at the expense of the Commission's time to review the ID. The Commission has



determined to grant the request in part, extending the deadline 21 days to November 10, 1987, for reasons stated in its Action and Order and Opinion.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Part 210 of the Commission rules (19 CFR Part 210).

Copies of the Commission's Action and Order, Opinion, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Kenneth R. Mason  
Secretary.

Issued: September 25, 1987.

[FR Doc. 87-22622 Filed 9-30-87; 8:45 am]

BILLING CODE 7020-02-M

## NATIONAL SCIENCE FOUNDATION

### Meeting; Advisory Committee for Astronomical Sciences

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Astronomical Sciences.

Date and Time: October 22, 1987, 9:00 am-5:00 pm; October 23, 1987, 9:00 am-4:00 pm.

Place: National Science Foundation, Room 540.

Type of Meeting: October 22, 1987, 9:00 am-5:00 pm, Open; October 23, 1987, 9:00 am-11:00 am, Closed; 11:00 am-4:00 pm, Open.

Contact Person: Dr. Laura P. Bautz, Director, Division of Astronomical Sciences, Room 615, National Science Foundation, Washington, DC 20550 (202/357-9488).

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: To provide advice and recommendations concerning research programs, proposals, and projects in NSF-funded astronomy with the objective of achieving the highest quality forefront research for the funds allocated. To provide advice and recommendations concerning short-range and long-range plans in astronomy, including a recommendation of relative priorities.

Agenda:

Thursday, October 22

9:00 am-5:00 pm—Status of FY 88 budget, Report of Subcommittee for Oversight

Review of the Astronomy Centers Section, Science and Technology Centers, FY 88 Programs and Impacts for the Research Section and the National Astronomy Centers.

Friday, October 23

9:00 am-11:00 pm—Closed: Review of a Proposal.

11:00 am-4:00 pm—Report on the Status of the Future of NOAO. Continuation of Discussions from Previous Day.

Reason for Closings: The proposal being reviewed includes information of a proprietary or confidential nature, including technical information: financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are within exemptions (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,  
Committee Management Officer.

September 28, 1987.

[FR Doc. 87-22686 Filed 9-30-87; 8:45 am]

BILLING CODE 7555-01-M

### Advisory Panel for Biochemistry; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Biochemistry.

Date: Monday and Tuesday, October 19 and 20, 1987 from 9:00 am to 5:00 pm.

Place: St. James Hotel, Washington, DC.

Type of Meeting: Closed.

Contact Person: Harold L. Segal, H. T. Huang, Program Directors and Estella K. Engel, Associate Program Director, Biochemistry Program, Room 325, Telephone (202) 357-7945.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for Biochemistry research proposals.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b (c), Government in the Sunshine Act.

September 28, 1987.

M. Rebecca Winkler,  
Committee Management Officer.

[FR Doc. 87-22689 Filed 9-30-87; 8:45 am]

BILLING CODE 7555-01-M

### Advisory Panel for Cellular Physiology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Cellular Physiology.

Date and Time: October 19, 20, 21, 1987—8:30 a.m. to 5 p.m. each day.

Place: Room 1242, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Maryanna P. Henkart, Program Director, Cellular Physiology Program, (202) 357-7377, Room 321, National Science Foundation, Washington, DC 20550.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research in Cellular Physiology.

Agenda: To review and evaluate research proposals and projects as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Rebecca Winkler,

Committee Management Officer.

September 28, 1987.

[FR Doc. 87-22690 Filed 9-30-87; 8:45 am]

BILLING CODE 7555-01-M

### Committee on Equal Opportunities in Science and Engineering; Meeting

Name: Committee on Equal Opportunities in Science and Engineering.

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Date: October 19, 20 and 21, 1987.

Time:

October 19: Subcommittee on Disabled, 1:30-4:30 p.m.

October 20: Subcommittee on Minorities, 9:00-11:30 a.m.

Full Committee Meeting, 1:30-4:30 p.m.

October 21: Full Committee Meeting, 9:00-11:30 a.m.

Subcommittee on Women, 1:30-4:30 p.m.

Type of Meeting: Open.

Contact: Mary M. Kohlerman, Executive Secretary of the CEOSE, National Science Foundation, Room 635, Telephone: 202/357-7066.

Purpose of Meeting: To provide advice to the Foundation on policies and activities to encourage full participation of groups currently underrepresented in scientific, engineering, professional and technical fields.

Summary Minutes: May be obtained from Executive Secretary.

Agenda: To review progress by the subcommittees and to meet with the Director and other NSF staff.

September 28, 1987.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-22687 Filed 9-30-87; 8:45am]

BILLING CODE 7555-01-M



**Advisory Panel for Integrative Neural Systems Program; Meeting**

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Integrative Neural Systems Program.

Date and Time: October 21-23, 1987, 9:00 a.m.-5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street NW., Washington, DC, Room 543.

Type of Meeting: Part Open—Closed 10/21—9:00 a.m. to 5:00 p.m.; Closed 10/22—9:00 a.m. to 5:00 p.m.; Open 10/23—9:00 a.m. to 11:00 a.m.; Closed 10/23—11:00 a.m. to 5:00 p.m.

Contact Person: Dr. Nathaniel G. Pitts, Program Director, Integrative Neural Systems Program, Room 320, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7040.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research integrative neural systems.

Agenda: Open—General discussion of the current status and future plans of the Integrative Neural Systems Program.

Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government Sunshine Act.

September 28, 1987.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-22688 Filed 9-30-87; 8:45 am]

BILLING CODE 7555-01-M

**Advisory Committee for Ocean Sciences (ACOS); Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Ocean Sciences (ACOS).

Date and Time: October 19-20, 1987—1:00am to 5:00pm—October 19, 1987; 8:30am to 5:00pm—October 20, 1987.

Place: Main Conference Room—American Institute of Architects, 1735 N.Y. Avenue NW., Washington, DC 20006.

Type of Meeting: Open.

Contact Person: Dr. M. Grant Gross, Director, Division of Ocean Sciences, Room 609, National Science Foundation, Washington, DC, Telephone: 202/357-9639.

Summary Minutes: May be obtained from the contact person.

Purpose of Committee: To provide advice and recommendations concerning oceanographic research and its support by the NSF Division of Ocean Sciences.

Agenda: The Committee will hold sessions as noted above. It will hear presentations and status reports on various topics of current interest from officials and representatives from NSF, other Departments and Agencies and, as appropriate, from other organizations active in ocean science research as well as from subcommittees and/or working groups. Topics to be presented and discussed include: Overview and update of FY-87 program activities; Profile of FY-88 Ocean Sciences budget and prospects for FY-89; Global Geosciences and the Global Change Program; Long-Range Planning activities; Reports on other GEO Advisory Committees—by liaison members; GEO Quarterly Review; Oversight Review Schedule for OCE activities; Presentation on TOGA Program activities. The Committee will take appropriate action on these and other matters as may be required and also conduct necessary administrative functions with respect to: approval of minutes of the previous meeting; determination of time and place for the next meeting as well as other appropriate business.

September 28, 1987.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 87-22691 Filed 9-30-87; 8:45 am]

BILLING CODE 7555-01-M

**NUCLEAR REGULATORY COMMISSION**

[Docket Nos. 50-272-OLA and 50-323-OLA]

**Reconstitution of Atomic Safety and Licensing Appeal Board; Pacific Gas & Electric Co. (Diablo Canyon Nuclear Power Plant Units 1 and 2)**

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has reconstituted the Atomic Safety and Licensing Appeal Board for this operating license amendment proceeding. As reconstituted, the Appeal Board for this proceeding will consist of the following members:

Alan S. Rosenthal, Chairman  
Thomas S. Moore  
Howard A. Wilber.

C. Jean Shoemaker

Secretary to the Appeal Board.

Dated: September 25, 1987.

[FR Doc. 87-22668 Filed 9-30-87; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-387 and 50-388]

**Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity For Hearing; Pennsylvania Power & Light Co. and Allegheny Electric Cooperative Inc.**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-14 and NPF-22 issued to Pennsylvania Power and Light Company, and Allegheny Electric Cooperative Inc., for operation of Susquehanna Steam Electric Station (SSES), Units 1 and 2, located in Luzerne County, Pennsylvania.

The proposed amendments would revise the SSES Technical Specifications to permit changes to 125 volt dc battery profile contained in the Technical Specifications. The proposed changes were previously published in bi-weekly Federal Register Notice dated July 15, 1987 (52 FR 26595), and September 23, 1987 (52 FR 35802) in accordance with the licensee's application for amendment dated June 10, 1987, and as revised by a letter dated September 1, 1987. By a letter dated September 23, 1987, the licensee has again revised its request for an amendment and has confirmed that the required battery load profiles can be met with the existing 125 volt dc batteries. The licensee has had difficulty in obtaining qualified new batteries of a larger capacity and has therefore withdrawn its proposal to install two new batteries.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff has reviewed the licensee's revised request and concurs with the following basis and conclusion provided



by the licensee in its September 23, 1987 submittal.

The proposed change does not:

(1) Involve an increase in the probability or consequences of an accident previously evaluated. Final Safety Analysis Report (FSAR) Subsection 8.3.2.1.1.4 states that the station batteries have sufficient capacity without the charger to independently supply the required loads for four hours. The Technical Specifications require that the batteries be surveilled to dummy loads which are greater than the design loads. An assessment has been performed by our engineering department which verifies that the batteries have adequate capacity to power the actual loads on the 125 V DC system. The new load Specifications envelop the actual loads(;

(2) Create the possibility of a new or different kind of accident from any previously evaluated. As stated in Part (1), the batteries have sufficient capacity to power the actual battery loads thus enabling them to perform their intended function. Any postulated accident resulting from this change is bounded by previous analysis(;

(3) Involve a reduction in the margin of safety. IEEE 485 requires that the related battery capacity include a margin for aging of the battery and the temperature of the batteries' environment at the beginning of battery life. This margin allows replacement of the battery when its capacity is decreased to 80% of its rated capacity (100% design load). As \* \* \* if the battery capacity is corrected for a temperature of 65°F (the lowest observed electrolyte temperatures), the batteries currently have at least a 25% margin in accordance with IEEE 485. Also, based upon the vendor's aging curves it is not expected that the batteries will significantly deteriorate during the next 3-4 years. With the increased battery loads and the installation of the ATWS ARI System it can be concluded that the overall margin of safety of the plant is improved.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington,

DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room 4000, Maryland National Bank Building, 7735 Old Georgetown Road, Bethesda, Maryland from 8:15 a.m. to 5:00 p.m. Copies of written comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By November 2, 1987, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,



Washington, DC 20555, Att: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Walter R. Butler, Director, Project Directorate I-2, Division of Reactor Projects I/II: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i) through (v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 10, 1987, as amended and supplemented September 1 and 23, 1987, which are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Dated at Bethesda, Maryland, this 25th day of September.

For The Nuclear Regulatory Commission.  
**Walter R. Butler,**  
*Director, Project Directorate I-2, Division of Reactor Projects I/II.*  
 [FR Doc. 87-22675 Filed 9-30-87; 8:45 am]  
 BILLING CODE 7590-01-M

## OFFICE OF MANAGEMENT AND BUDGET

### Cost of Hospital and Medical Care and Treatment Furnished by the United States; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by section 2(a) of the Act of September 25, 1962, (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970, (35 FR 10737), the following three sets of rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations) through three separate Federal agencies. These rates have been established in accordance with the requirements of OMB Circular A-25, requiring reimbursement of the full cost of all services provided. This has been determined as follows:

(a) For the Department of Defense—historical costs and workload data developed through the Medical Expense and Performance Reporting System (MEPRS) provide an operating cost base to which are added systemwide costs and allowances for actual inflation and pay raises to obtain the estimates for the fiscal year under review. The costs added are those items required by OMB Circular A-25: (1) Retirement costs for civilian personnel; and (2) an asset charge in lieu of a specific depreciation cost of fixed assets.

(b) For the Veterans Administration—the actual costs and per diem rates by

type of care for the previous year are added to the estimated costs for depreciation of buildings and equipment, administrative overhead, interest on capital investment, and Government employee retirement and disability charges. These computed rates are then adjusted by the budgeted percentage change to arrive at the estimated rates for the fiscal year under review.

(c) For the Department of Health and Human Services—the sum of obligations for each cost center providing medical services is broken down into amounts attributable to inpatient care on the basis of the proportion of staff devoted to each. Total inpatient costs and outpatient costs thus determined are divided by the relevant workload statistic (inpatient day, outpatient visit) to produce the inpatient and outpatient rates. In calculating the rates, the Department's unfunded retirement liability costs, and capital and equipment depreciation costs were incorporated to conform to requirements contained in OMB Circular A-25. In addition, cost centers' obligations include all costs from all accounts—such as Medicare and Medicaid collections, and Contract Health funds used to support direct operations. Inclusion of these funds yields a more accurate indication of the cost of care in HHS facilities.

These rates represent the reasonable cost of hospital, nursing home, medical, surgical, or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals, nursing homes, and outpatient clinics, administered by any of the three Federal agencies—Department of Defense, Veterans Administration or Department of Health and Human Services.

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be amounts expended by the United States for such care and treatment.

	Effective October 1, 1987 and thereafter		
	DOD	VA	HHS
<i>Hospital care per inpatient day:</i>			
General medical care	\$466	\$473	\$691
Surgical care		611	
Psychiatric care		236	
Intermediate care		190	
Neurology		393	
Rehabilitation medicine		372	
Blind rehabilitation		465	



	Effective October 1, 1987 and thereafter		
	DOD	VA	HHS
Alcohol and drug treatment.....		197	
Prescription.....		14	
Nursing home care.....		188	
Spinal cord injury care.....		524	
Burn Center, U.S. Army Institute of Surgical Research, Brooke Army Medical Center, Fort Sam Houston, Texas.....	1,891		
Outpatient medical and dental treatment:			
Outpatient visit.....	60	127	86

For 1988, the cost of separate clinic stops during the course of a single visit to a VA outpatient facility is consolidated into a single charge. Consistent with previous practice, the Department of Defense and Department of Health and Human Services rates do not consolidate all clinic stops.

For the period beginning October 1, 1987, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on September 27, 1986 (51 FR 35709).

Date: September 24, 1987.

James C. Miller III,

Director, Office of Management and Budget.

[FR Doc. 87-22725 Filed 9-30-87; 8:45 am]

BILLING CODE 3110-01-M

## RAILROAD RETIREMENT BOARD

### Agency Forms Submitted for OMB Review

**AGENCY:** Railroad Retirement Board.

**ACTION:** In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### Summary of Proposal(s)

- (1) Collection title: Employer's Quarterly or Annual Report of Contributions Under the RUIA
- (2) Form(s) submitted: DC-1
- (3) Type of request: Extension of the expiration date of a currently approved collection without any change in the substance or in the method of collection
- (4) Frequency of use: Quarterly or annually
- (5) Respondents: Businesses or other for-profit, Small businesses or organizations
- (6) Annual responses: 2,387
- (7) Annual reporting hours: 835

(8) Collection description: Railroad employers are required to make contributions to the RUI fund quarterly or annually equal to a percentage of the creditable compensation paid to each employee. The information furnished on the report accompanying the remittance is used to determine correctness of the amount paid.

**Additional Information or Comments:** Copies of the proposed forms and supporting documents may be obtained from Pauline Lohens, the agency clearance officer (312-751-4692).

Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Elaine Norden (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 87-22592 Filed 9-30-87; 8:45 am]

BILLING CODE 7905-01-M

### Agency Forms Submitted for OMB Review

**AGENCY:** Railroad Retirement Board.

**ACTION:** In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

#### Summary of Proposal(s)

- (1) Collection title: Application to Act as Representative Payee.
- (2) Form(s) submitted: AA-5, G-478.
- (3) Type of request: Revision of a currently approved collection.
- (4) Frequency of use: On occasion.
- (5) Respondents: Individuals or households, Businesses or other for-

profit, Small businesses or organizations.

(6) Annual responses: 26,500.

(7) Annual reporting hours: 22,167.

(8) Collection description: Section 12 of the Railroad Retirement Act provides for the payment of benefits to a representative payee when an employee, spouse or survivor annuitant is incompetent or a minor. The collection obtains information used by the Board for selection of a representative payee and verification of an annuitant's capability to manage benefit payments.

#### Additional Information or Comments

Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312-751-4692). Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Elaine Norden (202-395-7316), Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information and Data Management.

[FR Doc. 87-22601 Filed 9-30-87; 8:45 am]

BILLING CODE 7905-01-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-24943; File No. SR-NASD-87-33]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.;

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 31, 1987, the National Association of Securities Dealers, Inc. ("NASD") filed with the



Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which have been prepared by the NASD. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

# I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NASD hereby files a proposed rule change, pursuant to section 19(b)(1) of the Act and Rule 19b-4 thereunder, to allow non-member banks to access the Municipal Bond Acceptance and Reconciliation Service ("MBARS"). MBARS, which was approved by the Commission on January 21, 1987 (Release No. 34-24022), is an extension of the NASD's Trade Acceptance and Reconciliation Service ("TARS") to accommodate over-the-counter ("OTC") transactions in municipal debt instruments that are eligible for processing through a registered national clearing agency. Currently, subscription to MBARS is limited to NASD member firms that are members of a registered clearing agency and have the requisite equipment to access the service.

# II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

## A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to allow non-member banks to subscribe to MBARS on the same terms currently available to NASD member firms. This proposed rule change will not affect any of the operational features of MBARS which are detailed in the *MBARS User Guide*. That document was previously filed with the Commission as an exhibit to File No. SR-NASD-87-2, which the Commission approved to enable introduction of the MBARS enhancement to TARS.

Presently, member firms subscribing to TARS can receive MBARS at no additional cost. However, subscribers wishing only to receive MBARS must

pay the prescribed fees for TARS plus the applicable equipment charges. The service fees for TARS and the relevant equipment charges are contained in Part IX of Schedule D to the NASD By-Laws. This approach recognizes the fact that MBARS is merely an adaptation of TARS to a different class of securities eligible for processing through a clearing corporation. Hence, banks subscribing to MBARS would pay the same fees as member firms that subscribe exclusively to the MBARS service. As of August 1, 1987, approximately five NASD member firms were utilizing nine terminals as "MBARS-only" subscribers. Banks wishing to subscribe must still satisfy the existing MBARS requirement of membership in a clearing corporation for purposes of clearing municipal bond trades.

It should be recalled that MBARS was designed to support the clearance of municipal bond trades and to assist subscribers by providing on-line entry of trade data respecting transactions cleared through a registered clearing agency. In this way, MBARS introduced a greater degree of automation to the process of clearing OTC transactions in municipal bonds, particularly the process of resolving uncompleted trades. Collectively, the various features of MBARS serve to expedite comparison and provide a cost-effective mechanism for processing OTC transactions in municipal bonds eligible for clearance through a clearing agency.

Commission approval of the instant filing will expand the universe of potential MBARS subscribers to non-member banks that are active in municipal bonds. Thus, more entities will be able to realize the efficiencies that result from subscription to MBARS. This serves to advance the public policy goals articulated in the statutory provisions that supported the Commission's approval of MBARS earlier this year. Accordingly, statutory support for the proposed broadening of access to MBARS can be found in sections 17A(a)(1)(A), (B), and (C) of the Act.

These provisions under section 17A contain the Congressional findings respecting a national system for clearance and settlement of securities transactions:

[that] the prompt and accurate clearance and settlement of securities transactions, including the transfer of record ownership and the safeguarding of securities and funds related thereto, are necessary for the protection of investors and persons facilitating transactions by and acting on behalf of investors; [that] inefficient procedures for clearance and settlement impose unnecessary costs on investors and

persons facilitating transactions by and acting on behalf of investors; [and that] new data processing and communications techniques create the opportunity for more efficient, effective, and safe procedures for clearance and settlement.<sup>1</sup>

Additionally, expanded access to MBARS is supported by Section 15A(b)(6) of the Act and Municipal Securities Rulemaking Board ("MSRB") Rule G-12, subparagraphs (f) and (h). Section 15A(b)(6) requires national securities associations, such as the NASD, to promulgate rules designed to foster cooperation with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, municipal securities. In that connection, subparagraph (f) of MSRB Rule G-12 concerns the use of automated comparison, clearance and settlement systems; subparagraph (h) concerns the resolution of open interdealer transactions.<sup>2</sup> Expanded access to MBARS will foster achievement of the statutory goals expressed in section 15A(b)(6) of the Act<sup>3</sup> and promote compliance with MSRB Rule G-12, particularly subparagraphs (f) and (h). Lastly, the NASD notes that section 19(g)(1)(B) of the Act mandates, among other things, that the NASD enforce compliance by its members with the rules of the MSRB.

The NASD submits that the foregoing provisions constitute adequate statutory bases for Commission approval of this filing.

## B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that no competitive burden will arise from allowing non-member banks to access MBARS. A bank's decision to subscribe will be based upon an assessment of the costs/benefits of MBARS in relation to the volume of its municipal bond transactions. Banks electing access to MBARS would be subject to the same terms, conditions, and fees that apply to NASD member firms subscribing only to MBARS. Hence, implementation of this

<sup>1</sup> Section 3(a)(12) of the Act defines the term "exempted securities" to include municipal securities. This provision also specifies that municipal securities shall not be deemed to be "exempted securities" for purposes of section 17A of the Act.

<sup>2</sup> See, e.g., Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531, which approved proposed changes to MSRB Rules G-12 and G-15 establishing a timetable for integrating municipal securities brokers and dealers into the National Clearance and Settlement System.

<sup>3</sup> Section 15B(b)(2)(C) of the Act establishes a parallel requirement respecting the rules promulgated by the MSRB.



proposal would assure fair treatment of all authorized subscribers.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Comments were neither solicited nor received respecting this proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The NASD requests the Commission to find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. This request is grounded upon several factors. First, the NASD desires to expedite realization of the benefits that MBARS will offer to banks that are active in municipal bonds. Second, the filing does not contemplate any modification in operational procedures or in any features previously described in the *MBARS User Guide*. Third, the NASD believes that there is no policy question raised by the prospect of expanded access subject to the same terms, conditions and fees that currently apply to NASD member firm subscribers. Fourth, the NASD points out that the Commission has previously reviewed and approved not only MBARS, but the automated comparison services for municipal securities transactions offered by the National Securities Clearing Corporation, Midwest Clearing Corporation, Pacific Clearing Corporation, the Depository Trust Company, and the Stock Clearing Corporation of Philadelphia.<sup>4</sup> In light of the foregoing factors, the NASD believes that accelerated approval is appropriate to promote achievement of the statutory goals articulated in sections 17A(a)(1)(A)-(C), 15A(b)(6), and 19(g)(1)(B) of the Act.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD and, in particular, the requirements of sections 17A(a)(1)(A)-(C), 15A(b)(6), and 19(g)(1)(B). In addition, the Commission agrees that the proposed rule change promotes compliance with MSRB Rule G-12. The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after

publication of the notice of filing in the *Federal Register* in that expansion of access to MBARS to non-member banks will allow those banks to realize the benefits of an automated comparison system for municipal securities transactions. The NASD has advised the Commission that 33 non-member banks that are clearing corporation participants are interested in subscribing to MBARS.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR-NASD-87-33 and should be submitted by October 22, 1987.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Dated: September 25, 1987.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 87-22628 Filed 9-30-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16005; 812-6769]

**Fidelity Deutsche Mark Fund, L.P. et al.**

**Application;**

September 25, 1987.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

*Applicants:* Fidelity Deutsche Mark Fund, L.P., Fidelity Pound Fund, L.P., Fidelity U.S. Investments Bond Fund, L.P., Fidelity U.S. Investments Government Securities Fund, L.P.,

Fidelity Yen Fund, L.P., Fidelity New Jersey Tax-Free Portfolio, L.P. (the "Funds") and Fidelity Management & Research Company ("FMR") (collectively "Applicants").

**Relevant 1940 Act Sections:**

Exemption requested under section 6(c) from the provisions of Section 2(a)(19) of the 1940 Act.

**Summary of Application:** Applicants seek an order exempting the Funds and certain of its proposed general partners (and any person who may become a successor or additional general partner) from the provisions of section 2(a)(19) of the 1940 Act to the extent that those general partners would be deemed "interested persons" of the Funds or their investment advisor, solely because of their status as general partners.

**Filing Date:** The application was filed on June 24, 1987 and amended on September 25, 1987.

**Hearing or Notification of Hearing:** If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 1:00 p.m., on October 16, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Service the Applicants with the request, either personally or by mail, and also sent it to the Secretary of the SEC, along with proof of service by affidavit or, for lawyers, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 82 Devonshire Street Boston, Massachusetts, 02109.

**FOR FURTHER INFORMATION CONTACT:** Curtis R. Hilliard, Special Counsel (202) 272-3030 (Division of Investment Management).

**SUPPLEMENTARY INFORMATION:**

Following is a summary of the application; the complete application is available for a free from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland (301) 258-4300).

**Applicant's Representations**

1. Each Fund is an open-end management investment company registered under the 1940 Act. Each Fund is organized as a limited partnership under the laws of the State of Delaware. Each Fund has filed with the Commission (1) a Notification of Registration on Form N-8A under

<sup>4</sup> See Securities Exchange Act Release Nos. 20976 (May 18, 1984), 49 FR 22426; 21120 (July 6, 1984), 49 FR 28490; 21279 (August 31, 1984), 49 FR 35456; and 21315 (September 12, 1984) 49 FR 36726, respectively.



section 8(a) of the 1940 Act, and (2) a Registration Statement on Form N-1A under the 1940 Act and the Securities Act of 1933, as amended (the "Registration Statement"). Additional information concerning the Funds is contained in their respective Registration Statements.

2. FMR serves as the Funds' investment advisor and will be primarily responsible for the selection of the Funds' investments and the administration of the Funds. FMR, a wholly-owned subsidiary of FMR Corp., is a Massachusetts corporation and a registered investment advisor with the Securities and Exchange Commission. Fidelity Distributors Corporation, a wholly owned subsidiary of FMR, acts as the distributor of shares representing the Funds' partnership interests ("Shares").

3. Each Fund has two classes of partners: general partners ("General Partners") and limited partners ("Limited Partners"). The General Partners ultimately will include up to twelve individuals (the "Managing General Partners") and one corporate General Partner, FMR (the "Non-Managing General Partner"). At least a majority, except as provided in section 10 of the 1940 Act, anticipated to be nine of twelve (three of four in the case of Fidelity U.S. Investments Bond Fund, L.P. and Fidelity U.S. Investments Government Securities Fund, L.P.), of the Managing General Partners (the "Independent General Partners") will be unaffiliated with the Fund and FMR. Certain provisions of section 10 of the 1940 Act permit a registered investment company to have a board of directors less than a majority of which are not "interested persons" of such company, including section 10(d) of the 1940 Act (relating to certain open-end companies) and section 10(e) of the 1940 Act (relating to temporary vacancies in boards of directors). The Managing General Partners will perform the same directions for the Funds as do the Trustees of other mutual funds managed by FMR organized as Massachusetts business trusts and will consist of the same individuals serving as Trustees of such funds; the Managing General Partners will have complete and exclusive control over the management, conduct and operation of the Funds' business. Under the terms of each Fund's Agreement of Limited Partnership (the "Agreement") FMR, as the Non-Managing General Partner, is permitted to participate in the management of the Fund as a General Partner, only in the event that no Managing General Partner remains to

elect to continue the business of the Fund and then only for the limited period of time (not in excess of 90 days) necessary to convene a meeting of the partners for the purpose of making such an election.

4. The Agreement provides that the General Partners shall not be personally liable for the repayment of any amounts standing in the account of a Limited Partner or holder of Shares including, but not limited to, contributions with respect to such Shares. Any such payment shall be solely from the Fund's assets. The General Partners shall not have any personal liability to any holder of Shares or to any Limited Partner for any loss, damage or any other cost incurred by reason of (1) any failure to withhold income tax under Federal or state tax laws with respect to income allocated to Limited Partners, (2) any change in Federal or state income tax laws, or in interpretations thereof, as they apply to the Fund, the holders of Shares or the Limited Partners, whether such change occurs through legislative, judicial or administrative action, (3) any error of judgment or mistake of fact or law, or (4) any other matter, unless the result of willful misfeasance, bad faith, gross negligence or reckless disregard of their duties. Any such loss, damage or other cost shall be satisfied from the Fund's assets.

5. The Agreement's provisions dealing with the liability and indemnification of General Partners will be supplemented by FMR's obtaining a standard, commercially-available, liability insurance policy, which will cover the General Partners, including the Managing General Partners, against liabilities and expenses to which they may be subject in their capacity as General Partners, so long as the General Partners have not engaged in willful misfeasance, bad faith, gross negligence or reckless disregard of their duties and have acted in good faith in the reasonable belief that their actions were in the best interest of the Fund.

6. To preserve each Fund's tax status as a partnership, rather than as an association taxable as a corporation, the Managing General Partners and the Non-Managing General Partner will, as long as current law, regulations, and Internal Revenue Service policy or interpretations thereof, in the opinion of counsel, require, own as a group not less than 1% of the Shares outstanding. The Non-Managing General Partner is obligated to contribute to the Fund through the purchase of Shares from time to time amounts in the aggregate sufficient to enable the General Partners to meet the 1% requirement. Thus, for so

long as the Non-Managing General Partner continues to serve in that capacity it may not redeem or assign Shares it holds as the Non-Managing General Partner or otherwise accept distributions in cash or property if that action would result in the failure of the General Partners to maintain such 1% interest in the Fund (provided such ownership is required as described above).

7. Under the Agreement a Managing General Partner may not assign Shares which he holds in his capacity as a General Partner to any party without the consent of a majority of the Managing General Partners (exclusive of such General Partner proposing to assign his Shares). Any assignee of such Managing General Partner for which such consent has been granted may not become a substituted Managing General Partner except if elected as such by the remaining Managing General Partners, and Limited Partners, if required by section 16(a) of the 1940 Act, as provided in the Agreement and shall otherwise hold such Shares as a Limited Partner.

8. The Agreement provides that the Limited Partners do not have the right to and shall not take part in the control of the Funds' business and shall have no right or authority to act for or bind the Funds, but they may exercise the rights and powers of Limited Partners under this Agreement and the Delaware Limited Partnership Act. Each of the Funds has, or will obtain, an opinion of counsel to the effect that exercise by Limited Partners to be liable for the obligations of the Funds by reason of being deemed to participate in the control of the Partnership's business.

9. No Limited Partner shall be liable for the debts or obligations of the Funds, provided, however, that the contribution of a Limited Partner (represented, in the case of the Funds, by the price paid by Limited Partners for their shares) shall be subject to the risks of the business of the Funds and subject to the claims of the Funds' creditors, and provided further that, after any Limited Partner has received the return of any part of his contribution, he will be liable to the Funds to the extent required by the Delaware Uniform Limited Partnership Act.

10. The Delaware Uniform Limited Partnership Act also requires that a limited partner that has received a return of any part of his contribution be liable for the amount of the returned contribution to the extent necessary to discharge the partnership's liabilities to creditors, or for the amount of the contribution wrongfully returned if such



returned contribution was in violation of the partnership agreement or the Delaware Uniform Limited Partnership Act. Each Fund intends to include in its contracts a provision limiting the claims of creditors to the Fund's assets (as permitted by Section XV(g) of the Agreement) and may carry insurance in such amounts as the Managing General Partners, in their judgment, consider reasonable to cover potential liabilities of the Fund. In addition, the Managing General Partners will periodically review the question of the appropriateness of obtaining errors and omissions insurance for each Fund. Thus, the risk of a limited partner incurring financial loss on account of his liability will be limited to circumstances in which the Fund itself would be unable to meet its obligations.

#### Applicant's Legal Analysis

1. Each of the Managing General Partners is a partner of the Funds and a co-partner of FMR and, thus, under section 2(a)(3), each may be deemed an affiliated person of the Funds and FMR. As an affiliated person of the Funds and FMR, each of the Managing General Partners, including each Independent General Partner, may be an interested person of the Funds and FMR under sections 2(a)(19)(A) and 2(a)(19)(B) of the 1940 Act. If all of the Managing General Partners were deemed interested persons of the Funds and FMR, the Funds would be precluded from meeting a number of requirements imposed on a registered investment company by the 1940 Act and various rules under the 1940 Act.

2. To enable the Funds to comply with the requirements of the 1940 Act relating to an investment company's non-interested directors, Applicants, in accordance with section 6(c), seek an exemption from section 2(a)(19) of the 1940 Act so that the Managing General Partners will not be considered interested persons of the Funds or FMR solely because of their position as General Partners (the "Exemption"). FMR agrees, as long as current law, regulations, and Internal Revenue Service policy or interpretations thereof, in the opinion of counsel requires the General Partners to own as a group not less than 1% of the shares of each Fund outstanding, as a condition of the Exemption, to fulfill its obligation under the Agreement to contribute to each Fund through the purchase of Shares from time to time an aggregate amount sufficient to enable the General Partners to meet such 1% limit.

3. Applicants submit that the Exemption is both in the public interest and consistent with the policies

underlying the 1940 Act. The Exemption, if granted, will enable the Funds to operate as limited partnerships and thereby afford the Funds flexibility to meet their investment objectives. It likewise is consistent with the protection of investors because it will assure oversight of the Funds' affairs by the Independent Managing General Partners.

For the Commission, by the Division of Investment Management, under delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 87-22699 Filed 9-30-87; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-16004; 812-5940]

#### Application; 5600, Inc.

September 25, 1987.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

*Applicant:* 5600, Inc.

*Relevant 1940 Act Section:* Exemption requested under section 6(c) from all the provisions of the 1940 Act.

*Summary of Application:* Applicant seeks an order exempting from all the provisions of the 1940 Act certain investment vehicles primarily owned or controlled by the Rockefeller family ("Exclusive Family Investment Vehicle").

*Filing Date:* The application was filed on September 17, 1984, and amended on October 14, 1986, and September 22, 1987. A letter will be submitted during the notice period the substance of which are contained herein.

*Hearing or Notification of Hearing:* If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 19, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicant with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549.

Applicant, Suite 5600, Rockefeller Plaza, New York, New York 10112.

**FOR FURTHER INFORMATION CONTACT:** Sherry A. Hutchins, Staff Attorney (202) 272-3026, or Brion R. Thompson, Special Counsel (202) 272-3016 (Division of Investment Management).

#### SUPPLEMENTARY INFORMATION:

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier who can be contacted at (800) 231-3282 (in Maryland, (301) 258-4300).

#### Applicant's Representations:

1. Applicant is one of several corporations which were established by the Rockefeller Family (the "Family") in 1979 to provide a more permanent structure for the offering of the various services that had, prior to that time, been provided by an office maintained by the Family. These services include financial planning, asset management, investment advice, trust and estate administration, legal and accounting services and other miscellaneous services. Applicant, directly and through its subsidiaries, is the principal management vehicle for these services. Among the subsidiaries of Applicant is Rockefeller and Co., Inc. ("Rockefeller"), an investment adviser registered under the Investment Advisers Act of 1940. The stock of these corporations is all held, directly or indirectly, by a trust which was established in 1979 by senior Family members (the "Family Trust") and is administered by trustees who are not Family members for the benefit of descendants of the grantors' generation of the Family and their spouses (the beneficiaries of the Family Trust being referred to herein as "Family Trust Beneficiaries").

2. The grandchildren and great grandchildren of John D. Rockefeller, Jr. make up the overwhelming majority of individual adult clients of Rockefeller. Each generation elects representatives to an advisory committee (the "Advisory Committee") which advises the trustees of the Family Trust. The Advisory Committee is charged with the responsibility of advising the trustees with respect to matters affecting the Family Trust and the Family Trust Beneficiaries, but has no power to restrict the discretion granted the trustees by the trust indenture. The Advisory Committee also has the power to set the compensation for the trustees. In addition, nine of the eleven members of the Advisory Committee, currently serve as directors of Applicant, and all



of the directors of Applicant are Family members. Two of the six directors of Rockefeller are Family members. The office maintained by the Family, together with the Family Trust and the corporations owned, directly or indirectly by the Family Trust, are collectively referred to herein as the "Family Office".

3. Clients of the Family Office are comprised principally of the classes of persons listed below and several partnerships whose partners consist of such persons (the "Family Clients"):

#### A. Rockefeller Family

(1) *Individuals.* Descendants of John D. Rockefeller, Jr. and his cousin Margaret Strong de Larrain and their spouses (including former spouses and adopted children or step children);

(2) *Estates.* Estates of persons described in A(1);

(3) *Trusts.* Trusts created by or for the benefit of persons described in A(1) or A(2).

No Individual Family member shall be considered a Family Client unless such person has a continuing and substantial relationship with the Family and the Family Office, as determined by Applicant's Chief Executive Officer. In determining whether a person has such a relationship, the following factors will be considered:

(1) The extent to which such person regularly uses the services of the Family Office and seeks advice from the Family Office;

(2) Whether such person actively participates in selection of members to the Advisory Committee and in other aspects of control of the various Family organizations;

(3) The proportion of such person's assets available for investment which are under management of the Family Office; and

(4) The degree to which such person is dependent on other members of the Family or the Family Office for such person's financial well being.

If an Individual Family member has under management of the Family Office at least 50% of such person's assets available for investment, it will be conclusively presumed that such person has such a continuing and substantial relationship and is, therefore, a Family Client.

#### B. Charities

The Rockefeller University and The Colonial Williamsburg Foundation and other charitable or educational institutions which, at the time they make any investment in an Exclusive Family Investment Vehicle (as defined below), are controlled (as defined in Rule 405

under the Securities Act of 1933, as amended) by the Family. A charitable or educational institution which at some time in the future may no longer be controlled (as defined above) by the Family shall continue to be deemed to be a Family Client, but only with respect to its existing investments in Exclusive Family Investment Vehicles (i.e., it may not make any new investments in such vehicles), provided, however, that the Family continue to have an eleemosynary interest in or is represented in the governance of such institution. If at any time the conditions set forth in the immediately preceding proviso are no longer met with respect to an institution, then one year after such institution no longer meets such conditions, such institution shall no longer be deemed to be a Family Client for any purposes hereof, and each Exclusive Family Investment Vehicle in which such institution has invested must redeem the investment interest of such institution unless such institution would otherwise be allowed to invest in such Exclusive Family Investment Vehicle in the absence of its classification as a Family Client.

#### C. Business

Businesses in which the Family has a significant financial interest, defined as at least a 25% equity interest, and which are controlled (as defined in Rule 405 under the 1933 Act) by the Family.

#### D. Key Employees

Key managers, supervisors and professionals or former employees of the Family and its Charities, Businesses or Trusts for the benefit of such Key Employees or former Key Employees. The term "Key Employees" shall mean those persons who meet each of the following criteria as determined by Applicant's Chief Executive Officer:

(1) such Key Employee is compensated at a rate in excess of \$50,000 per year;

(2) such Key Employee either (i) has a substantial business or professional background and has at least a college or professional degree or (ii) has substantial specific experience in financial matters;

(3) such Key Employee performs significant executive, professional or managerial functions;

(4) such Key Employee is involved with the Family's business and/or philanthropic activities and interrelates personally and directly with Family members and has regular access to Family members; and

(5) such Key Employee is a participant in a Key Employee investment program, under which in its present form Family

members or entities affiliated with Family members make or arrange for loans to employees for the purpose of investing such loan proceeds in Exclusive Family Investment Vehicles or other investment vehicles managed by the Family Office.

The estate of a Key Employee who dies after the Key Employee subscribed to purchase an interest in an Exclusive Family Investment Vehicle but before such Investment Vehicle has started to make investments will be returned the money invested by such Key Employee. At present less than 8% of the employees of the Family, and its Charities, Businesses or Trusts are Key Employees. It is anticipated that this percentage will not change substantially.

#### Applicant's Legal Analysis

1. Several limited partnerships have been established by the Family Office as investment vehicles for the Family Clients. All of these existing investment limited partnerships are advised by Rockefeller except for one which is separately managed by its general partners who are employees of the Family Trust. Several other investment general or limited partnerships, corporations or investment trusts will be established in the future. To the extent each existing and future Exclusive Family Investment Vehicle can no longer avail itself of the exemption for a "private" investment company under section 3(c)(1) of the 1940 Act, Applicant requests that the SEC exempt such existing and future investment vehicles from all provisions of the 1940 Act. Applicant submits that the Exclusive Family Investment Vehicles will be Family-owned and/or controlled investment vehicles and, thus, the requested exemption is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

2. Substantially all of the investors in the Exclusive Family Investment Vehicles will be Family Clients. It is the intention of the Family Office that each existing investment vehicle and each investment vehicle which may be established by the Family Office either (i) will be exempt from registration under the 1940 Act as an investment company by reason of section 3(c)(1) thereof or by reason of some other exemption from registration or (ii) if it is not so exempt (a) will be at least 90% owned by or for the benefit of Family Clients, (b) will be at least 25% owned by or for the benefit of Individuals,



Estates and Trusts of the Family and (c) any part of any such investment vehicle that is not held by or for the benefit of Family Clients will be held by not more than 35 persons and will not be publicly held. Each existing or future Family investment vehicle established by the Family Office having the characteristics set forth in the foregoing clause (ii) is herein referred to as an "Exclusive Family Investment Vehicle". There are eight investment limited partnerships that are currently managed by the Family Office which qualify as Exclusive Family Investment Vehicles.

3. The Family Office controls, and will continue to control, access to membership in all Exclusive Family Investment Vehicles. The partnership agreement of each existing Exclusive Family Investment Vehicle provides that no person may be admitted as a limited partner without the approval of the general partner. The partnership agreement, charter, by-laws or other organizational documents of each future Exclusive Family Investment Vehicle will obtain a comparable restriction on admission of investors. In each case the general partner, managing partner or other manager with the power to control the admission of investors will consist of one or more corporations or persons affiliated or associated with or employed by the Family Office.

4. In addition, each existing partnership agreement except one provides, and the organizational documents of each future Exclusive Family Investment Vehicle will provide, that no ownership interest in the investment vehicle may be assigned without the approval of the general partner, managing partner or manager. The one existing partnership agreement without this provision is intended to be amended promptly, and in any event prior to the time such partnership would qualify as an Exclusive Family Investment Vehicle under the requested exemptive order, to add such a provision.

#### Applicant's Conditions

In order to assure that the status of the Exclusive Family Investment Vehicles as Family enterprises will not change prospectively, Applicant agrees to the following undertakings being made conditions to any order granting the requested exemptive relief:

1. That, each Exclusive Family Investment Vehicle will continue to furnish annually to each investor financial statements for such vehicle audited by an accounting firm of recognized national standing.

2. That, each Exclusive Family Investment Vehicle shall neither admit

as a new investor, nor permit the assignment or transfer of any interest in such investment vehicle to, any individual or entity if such admission, assignment or transfer would cause such Exclusive Family Investment Vehicle to fail to have the following characteristics: (a) Such Exclusive Family Investment Vehicle will be at least 90% owned by or for the benefit of Family Clients, (b) such Exclusive Family Investment Vehicle will be at least 25% owned by or for the benefit of Individuals, Estates or Trusts of the Family and (c) any part of such Exclusive Investment Family Vehicle that is not held by or for the benefit of Family Clients will be held by not more than 35 persons and will not be publicly held.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,  
Assistant Secretary.

[FR Doc. 87-22700 Filed 9-30-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-16003; (812-6844)]

#### Application; McKinley Allsopp, Inc. et al.

Date: September 25, 1987.

**ACTION:** Notice of Application for Exemption Under the Investment Company Act of 1940 ("1940 Act").

**Applicants:** McKinley Allsopp, Inc., B.C. Christopher Securities, Co., and Investment Corporation of Virginia.

**Relevant 1940 Act Sections:** Exemption requested pursuant to section 6(c) from the provisions of section 30(f).

**Summary of Application:** Applicants seek an order pursuant to section 6(c) of the 1940 Act exempting certain transactions from section 30(f) of the 1940 Act to the extent that it incorporates the provisions of Section 16 of the Securities Exchange Act of 1934 ("1934 Act").

**Filing Date:** The application was filed on August 21, 1987.

**Hearing or Notification of Hearing:** If no hearing is ordered, the requested exemption will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m., on October 20, 1987. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with

proof of service by affidavit, or, for attorneys, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, c/o McKinley Allsopp, Inc., 780 Third Avenue, New York, New York 10017.

**FOR FURTHER INFORMATION CONTACT:** Thomas Mira, Staff Attorney (202) 272-3033, or Brion R. Thompson, Special Counsel (202) 272-3016 (Office of Investment Company Regulation).

#### SUPPLEMENTARY INFORMATION

Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier at (800) 231-3262 in Maryland (301) 258-4300.

#### Applicants' Representations

1. Applicants, broker-dealers registered under the 1934 Act, are the underwriters of a proposed public offering of common stock of PCL Diversifund, Inc. ("Fund"), a registered, closed-end, diversified, management investment company. A registration statement relating to the offering was filed with the SEC on August 12, 1987.

2. In the proposed public offering the Fund will offer 3,000,000 shares of common stock to the public, plus 450,000 shares to cover Applicants' over-allotment option. The Fund shares are to be purchased by Applicants pursuant to an underwriting agreement ("Underwriting Agreement") to be entered into between applicants, the Fund and PCMA, Inc., the Fund's investment adviser ("Adviser"). It is also contemplated that one or more dealers will offer to sell some of the Fund shares, and in connection with such offer and sale, each dealer will execute a Selected Dealer Agreement. It is intended that Applicants will make a public offering of all the Fund shares which Applicants are to purchase under the Underwriting Agreement, at the price specified therein, as soon as or after the effective date of the Fund's registration statement as Applicants deem advisable. Although the Fund's registration statement covers 3,450,000 shares of common stock (including the shares to cover the over-allotment option), the number may be increased or decreased in the Fund's registration statement, as amended at the time it becomes effective, depending on the market conditions and other factors to be considered by Applicants and the Fund at that time.



3. The underwriting commitment of any one or more of the Applicants may exceed 10% of the aggregate number of common shares of the Fund to be outstanding upon completion of its initial public offering. In addition to purchases from the Fund and sales of common shares, Applicants may engage in other purchases or sales of shares incident to a distribution, such as stabilizing purchases, purchases to cover over-allotments, and sales of common shares purchased in stabilization. Because section 30(f) of the 1940 Act subjects every person who is directly or indirectly the beneficial owner of more than 10% of any class of outstanding securities of a registered investment company to the same duties and liabilities as those imposed by section 16 of the 1934 Act, any Applicant owning more than 10% of the Fund's common shares becomes subject to the filing requirements of section 16(a) of the 1934 Act, and upon sale of the shares purchased by them, subject to the liabilities imposed by section 16(b) of the 1934 Act.

4. Some or all of the Applicants may fail to meet the requirement for exemption from section 16(b) as stated in Rule 16b-2(a)(3), because one or more of the Applicants who, pursuant to the Underwriting Agreement, may be obligated to purchase more than 10% of the shares of the Fund, and/or may distribute more than 50% of the shares of the Fund being offered. Moreover, one or more of the Applicants, even though they are initially obligated under the Underwriting Agreement to purchase 10% or less of the aggregate number of shares of the common stock to be outstanding upon completion of the public offering, may, as a consequence of defaults by other Applicants, become obligated to purchase more than 10% of the aggregate number of shares of common stock to be outstanding, and such Applicant may distribute more than 50% of the shares of common stock being offered.

#### Applicants' Legal Analysis

Section 16 of the 1934 Act was designed essentially to discourage the unfair use by insiders of "inside information" in short-term trading of their company's shares. There is no inside information in existence concerning the Fund. In addition, prior to the initial distribution of the shares, the Fund will have no assets other than cash or cash equivalents, no business of any sort, and all material facts will be set forth in the Fund's registration statement pursuant to which the shares will be offered and sold. No officer or director of any Applicant is an officer or

director of either the Fund or the Adviser, or any affiliate of the Adviser, and Applicants do not anticipate that any partner, director, or officer of any other underwriter will be a director or officer of the Fund, the Adviser or any such affiliate. Because there is no possibility of abuse of inside information, Applicants submit that an exemption from section 30(f) is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-22701 Filed 9-30-87; 8:45 am]

BILLING CODE 8010-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### Informal Airspace Meetings

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of informal airspace meetings.

**SUMMARY:** This notice announces a series of two informal airspace meetings to discuss proposed revocation, realignment, and establishment of restricted areas in the vicinity of Albemarle Sound, Harvey Point, and Long Shoal Point, North Carolina.

**DATES:** Manteo, North Carolina: 7:00 p.m. on November 3, 1987, Hertford, North Carolina: 7:00 p.m. on November 4, 1987.

**ADDRESSES:** North Carolina Aquarium, P.O. Box 467, Airport Road, Manteo, North Carolina 27954.

Albermarle Regional Planning and Development Commission, 512 South Main Street, Hertford, North Carolina 27944.

**FOR FURTHER INFORMATION CONTACT:** Walter E. Denley, Acting Manager, Airspace and Procedures Branch, ASO-530, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. Telephone: (404) 763-7415.

Issued in Atlanta, Georgia, on September 22, 1987.

Walter E. Denley,

Acting Manager, Airspace and Procedures Branch, Southern Region.

[FR Doc. 87-22471 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-73-M

### Federal Highway Administration

#### Environmental Impact Statement; Jackson County, MO

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of Intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Jackson County, Missouri.

#### FOR FURTHER INFORMATION CONTACT:

Mr. James Mullen, Federal Highway Administration, P.O. Box 1787, Jefferson City, MO 65102, Telephone No. 314-636-7104.

Mr. Jerry A. Page, Director of Public Works, Jackson County Department of Public Works, Courthouse Annex, 308 West Kansas Avenue, Independence, MO 64050, Telephone No. 816-881-4510.

Mr. Norman A. Schemmer, Mid-America Regional Council, 300 Rivergate Center, 600 Broadway, Kansas City, MO 64105-1536 Telephone No. 816-474-4240.

#### SUPPLEMENTARY INFORMATION:

(1) The South Riverfront Expressway is a proposed 12 mile roadway that passes through Kansas City, Independence, Sugar Creek, and unincorporated Jackson County, Missouri. The proposed expressway begins at the Front Street interchange on I-435 and proceeds easterly along the south side of the Missouri River to a major interchange with M-291. The corridor continues east of M-291 to the vicinity of the Missouri Pacific Railroad then turns south to an interchange with U.S. 24. The expressway is proposed as a four-lane, limited access roadway. The purposes of the proposed project are to remove truck traffic from residential streets, to improve access to the industrial areas and to the Missouri River riverfront, and to support proposed industrial development in the Little Blue River Valley.

(2) Three alternative alignments for the proposed expressway have been identified. A majority of the length of all three alignments is on new location. The alternatives all are routed on the alignment of existing local roads in some locations. However, because of discontinuities in the existing road system, upgrading the existing facilities does not offer a functional alternative to the proposed action. The fourth alternative is the no action alternative.

(3) Preliminary analysis of the proposed expressway has been directed by a project review team consisting of



staff representatives of the Cities of Independence, Kansas City, and Sugar Creek; Jackson County; the Mid-America Regional Council; and the Missouri Highway and Transportation Department. There have been three public meetings held on the proposed project. The first was a pre-location meeting held on December 10, 1986. Meetings were held on June 16 and 18, 1987, to present the alternatives under consideration and the findings of preliminary evaluations and to obtain individuals' view on the project.

(4) A technical memorandum describing the proposed action, alternatives, and a preliminary assessment of impacts will be sent to appropriate Federal, state, and local agencies. Public hearings will be held on dates to be determined.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding state and local clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

James M. Mullen,

District Engineer, Jefferson City.

[FR Doc. 87-22603 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 87-122]

#### Cancellation of Approval of Global Consultants, Inc., To Gauge Imported Petroleum and Petroleum Products

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Notice of cancellation of approval.

**SUMMARY:** Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), Global Consultants, Inc., a commercial gauger approved by Customs on April 16, 1984, under T.D. 84-87, notified Customs that it had transferred its gauging business to Seatran, Inc., of Houston, and requested cancellation of its own Customs gauger approval. Accordingly, the Customs approval of Global Consultants to gauge imported petroleum and petroleum products is hereby cancelled without prejudice.

**EFFECTIVE DATE:** September 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Roger J. Crain, Office of Technical Services, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-2446).

Dated: September 24, 1987.

Roger J. Crain,

Chief, Technical Branch, Office of Technical Services.

[FR Doc. 87-22662 Filed 9-30-87; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 87-119]

#### Approval of Petrospect To Gauge Imported Petroleum and Petroleum Products

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Notice of approval.

**SUMMARY:** Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), Petrospect, Inc., 1002 Third Avenue, Honolulu, Hawaii 96816 has applied to Customs for approval to gauge imported petroleum and petroleum products. Customs has determined that Petrospect meets all of the requirements for approval.

Accordingly, Petrospect, Inc., is hereby approved to gauge imported petroleum and petroleum products in the Honolulu Customs District.

**EFFECTIVE DATE:** September 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Roger J. Crain, Office of Technical Services, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229, (202-566-2446).

Dated: September 24, 1987.

Roger J. Crain,

Chief, Technical Branch, Office of Technical Services.

[FR Doc. 87-22663 Filed 9-30-87; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 87-121]

#### Approval of Seatran, Inc., To Gauge Imported Petroleum and Petroleum Products

**AGENCY:** U.S. Customs Service, Treasury.

**ACTION:** Notice of approval.

**SUMMARY:** Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), Seatran, Inc., 3701 Kirby, Suite 734, Houston, Texas 77098, notified Customs that it had assumed the gauging services of Global Consultants, Inc., a commercial gauger approved by Customs on April 16, 1984, under T.D. 84-87. Seatran then applied to Customs for approval to gauge imported petroleum and petroleum products in its own right. Customs has determined that Seatran, Inc., meets all of the requirements for approval.

Accordingly, Seatran, Inc., is hereby approved to gauge imported petroleum

and petroleum products in the Houston Customs District.

**EFFECTIVE DATE:** September 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Roger J. Crain, Office of Technical Services, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-2446).

Dated: September 24, 1987.

Roger J. Crain,

Chief, Technical Branch, Office of Technical Services.

[FR Doc. 87-22664 Filed 9-30-87; 8:45 am]

BILLING CODE 4820-02-M

[T.D. 87-120]

#### Approval of William R. Vaden To Gauge Imported Petroleum and Petroleum Products

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Notice of approval.

**SUMMARY:** Pursuant to § 151.13, Customs Regulations (19 CFR 151.13), William R. Vaden, d/b/a VIP Cargo Surveys Services, 3105 Leopard Street, No. 4, Corpus Christi, Texas 78408, has applied to Customs for approval to gauge imported petroleum and petroleum products. Customs has determined that Mr. Vaden meets all of the requirements for approval.

Accordingly, William R. Vaden, d/b/a VIP Cargo Surveys Service, is hereby approved to gauge imported petroleum and petroleum products in the Houston Customs District.

**EFFECTIVE DATE:** September 21, 1987.

**FOR FURTHER INFORMATION CONTACT:** Roger J. Crain, Office of Technical Services, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, DC 20229, (202-566-2446).

Dated: September 24, 1987.

Roger J. Crain,

Chief, Technical Branch, Office of Technical Services.

[FR Doc. 87-22665 Filed 9-30-87; 8:45 am]

BILLING CODE 4820-02-M

## VETERANS ADMINISTRATION

### Agency Form Under OMB Review

**AGENCY:** Veterans Administration.

**ACTION:** Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the



following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

**ADDRESSES:** Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 24, 1987.

By direction of the Administrator.

Frank E. Lalley,  
Director, Office of Information Management  
and Statistics.

#### Extension

1. Department of Veterans Benefits
2. Notice of Intention to Foreclose
3. VA Form 26-6851
4. This information is provided by the holder of a guaranteed/insured VA loan and serves as notification of intent to foreclose. This information is used by VA to provide assistance to the veteran-borrower.
5. On occasion
6. Individuals or households, Small businesses or organizations
7. 23,808 responses
8. 5,952 hours
9. Not applicable.

1. Department of Veterans Benefits
2. Insurance Deduction Authorization
3. VA Form 29-888
4. This information is used by insureds to authorize VA to make deduction payments from insurance benefits.
5. On occasion
6. Individuals or households
7. 3,732 responses
8. 622 hours
9. Not applicable.

1. Department of Veterans Benefits
2. Notice to Veterans Administration of Veteran or Beneficiary Incarcerated in Penal Institution
3. VA Form 21-4193
4. This information is used to determine the necessary adjustment or discontinuance of benefits.
5. On occasion
6. Individuals or households
7. 1,664 responses
8. 416 hours
9. Not applicable.

1. Department of Veterans Benefits
2. Wood Destroying Insect Information—Existing Construction
3. VA Form 26-8850
4. This information is used to determine suitability of property for guaranteed home loan.
5. On occasion
6. Individuals or households, Businesses or other for-profit, Small businesses or organizations
7. 118,691 responses
8. 39,564 hours
9. Not applicable.

#### Reinstatement

1. Department of Veterans Benefits
2. Farm Survey and Overall Farm and Home Plan Self-Proprietor/Manager—Chapter 31, Title 38, U.S.C.
3. VA Form 28-1905n
4. This information is needed to properly evaluate a veteran's farm for its potential and suitability for use as an on-farm site for vocational rehabilitation.
5. On occasion
6. Individuals or households, Farms
7. 30 responses
8. 60 hours
9. Not applicable.

[FR Doc. 87-22656 Filed 9-30-87; 8:45 am]

BILLING CODE 8320-01-M

#### Agency Form Under OMB Review

**AGENCY:** Veterans Administration.

**ACTION:** Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document lists the following information: (1) The department or staff office issuing the form, (2) the title of the form, (3) the

agency form number, if applicable, (4) a description of the need and its use, (5) how often the form must be filled out, (6) who will be required or asked to report, (7) an estimate of the number of responses, (8) an estimate of the total number of hours needed to fill out the form, and (9) an indication of whether section 3504(h) of Pub. L. 96-511 applies.

**ADDRESSES:** Copies of the forms and supporting documents may be obtained from Patti Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2146. Comments and questions about the items of the list should be directed to the VA's OMB Desk Officer, Joseph Lackey, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503, (202) 395-7316.

**DATES:** Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: September 28, 1987.

By direction of the Administrator.

Frank E. Lalley,  
Director, Office of Information Management  
and Statistics.

#### Extension

1. Department of Veterans Benefits.
2. Application for Change of Permanent Plan.
3. VA Form 29-1549.
4. This information is used to determine the insured's eligibility to change insurance plans.
5. On occasion.
6. Individuals or households.
7. 28 responses.
8. 42 hours.
9. Not applicable.

1. Department of Veterans Benefits.
2. Application for Reinstatement.
3. VA Form 29-353.
4. This information is used to establish the veteran's eligibility for reinstatement of government life insurance benefits.

5. On occasion.
6. Individuals or households.
7. 1,408 responses.
8. 352 hours.
9. Not applicable.

[FR Doc. 87-22657 Filed 9-30-87; 8:45 am]

BILLING CODE 8320-01-M



# Sunshine Act Meetings

Federal Register

Vol. 52, No. 190

Thursday, October 1, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## FEDERAL ELECTION COMMISSION

[Federal Register No. 87-22147]

**PREVIOUSLY ANNOUNCED DATE AND TIME:** Tuesday, September 29, 1987, 10:00 a.m.

**CHANGE IN MEETING:** The closed meeting scheduled for this date was cancelled.

**DATE AND TIME:** Tuesday, October 6, 1987, 10:00 a.m.

**PLACE:** 999 E Street, NW., Washington, DC.

**STATUS:** This meeting will be closed to the public.

### ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

**DATE AND TIME:** Thursday, October 8, 1987, 10:00 a.m.

**PLACE:** 999 E Street NW., Washington, DC. (Ninth Floor).

**STATUS:** This meeting will be open to the public.

### MATTERS TO BE CONSIDERED:

Setting of Dates for Future Meetings.

Correction and Approval of Minutes.

Eligibility Report for Candidates to Receive Presidential Primary Matching Funds.

FY '88 Management Plan.

1984 Public Financing Reports to the Congress Prepared Pursuant to 26 U.S.C. 9009(a) and 9039(a).

Routine Administrative Matters.

### PERSON TO CONTRACT FOR INFORMATION:

Mr. Fred Eiland, Information Officer, Telephone: 202-376-3155.

Marjorie W. Emmons, Secretary of the Commission.

[FR Doc. 87-22801 Filed 10-29-87; 2:25 pm]

BILLING CODE 6715-01-M

## FEDERAL RESERVE SYSTEM

**TIME AND DATE:** 10:00 a.m., Wednesday, October 7, 1987.

**PLACE:** Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

**STATUS:** Closed.

### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

### CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: September 29, 1987.

James McAfee

Associate Secretary of the Board.

[FR Doc. 87-22840 Filed 9-29-87; 3:57 pm]

BILLING CODE 6210-01-M

## FEDERAL TRADE COMMISSION

**TIME AND DATE:** 2:00 p.m., Wednesday, October 7, 1987.

**PLACE:** Room 532, (open); Room 540 (closed) Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, DC 20580.

**STATUS:** Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

### MATTERS TO BE CONSIDERED:

Portions Open to the Public:

(1) Oral Argument in Tigor Title Insurance Company et al., Docket No. 9190.

Portions closed to the Public:

(2) Executive Session to follow Oral Argument in Tigor Title Insurance Company et al., Docket No. 9190.

### CONTACT PERSON FOR MORE INFORMATION:

Susan B. Ticknor, Office

of Public Affairs: (202) 326-2179; Recorded Message: (202) 326-2711.

Emily H. Rock,

Secretary.

[FR Doc. 87-22734 Filed 9-29-87; 9:12 am]

BILLING CODE 6750-01-M

## SECURITIES AND EXCHANGE COMMISSION

**"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT:** (52 FR 36494 September 29, 1987).

**STATUS:** Closed meeting.

**PLACE:** 450 Fifth Street, NW., Washington, DC.

**DATE PREVIOUSLY ANNOUNCED:** Tuesday, September 22, 1987.

**CHANGE IN THE MEETING:** Addition/Deletion.

The following additional item will be considered at a closed meeting on Wednesday September 30, 1987, following the 10:00 a.m. open meeting.

Litigation matter.

The following item will not be considered at a closed meeting on Wednesday, September 30, 1987, following the 10:00 a.m. open meeting.

Report of investigation.

Commissioner Grundfest, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Kevin Fogarty at (202) 272-3195.

Jonathan G. Katz,

Secretary.

September 29, 1987.

[FR Doc. 87-22772 Filed 9-29-87; 12:48 pm]

BILLING CODE 8010-01-M



# Corrections

Federal Register

Vol. 52, No. 190

Thursday, October 1, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

#### 7 CFR Part 301

[Docket No. 87-120]

#### Mediterranean Fruit Fly

##### Correction

In rule document 87-20119 beginning on page 33218 in the issue of Wednesday, September 2, 1987, make the following corrections:

##### § 301.78-1 [Corrected]

1. On page 33221, in the third column, in § 301.78-1, in the definition for *Deputy Administrator*, in the third line, insert "Service" after "Inspection".

##### § 301.78-6 [Corrected]

2. On page 33223, in the third column, in § 301.78-6(b), in the sixth line, "the" should read "this".

##### § 301.78-8 [Corrected]

3. On page 33223, in the third column, in § 301.78-8(a), in the 11th line, insert "or other shipping" after "waybill".

BILLING CODE 1505-01-D

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 653

[Docket No. 70616-7183]

#### Red Drum Fishery of the Gulf of Mexico

##### Correction

In rule document 87-21388 beginning on page 34918 in the issue of Wednesday, September 16, 1987, make the following correction:

##### § 653.23 [Corrected]

On page 34922, in the third column, in § 653.23(a), in the seventh line, "§ 653.2" should read "§ 653.21".

BILLING CODE 1505-01-D

## ENVIRONMENTAL PROTECTION AGENCY

#### 40 CFR Part 52

[A-1-FRL-3263-1]

#### Approval and Promulgation of Implementation Plans; New Hampshire; Particulate Emission Standards and Permit Fees

##### Correction

In rule document 87-21479 beginning on page 35081 in the issue of Thursday, September 17, 1987, make the following correction:

##### § 81.330 [Corrected]

On page 35082, in § 81.330, under "New Hampshire--TSP," under "Better than national standards," remove the X's opposite the entries for Metropolitan Manchester and Metropolitan Berlin.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 58

[Docket No. 83N-0142]

#### Good Laboratory Practice Regulations

##### Correction

In rule document 87-20375 beginning on page 33768 in the issue of Friday, September 4, 1987, make the following corrections:

On page 33775, in the second column, in paragraph number 34., in the 3rd and 18th lines, remove the second "§".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 177

[Docket No. 86F-0075]

#### Indirect Food Additives; Polymers

##### Correction

In rule document 87-20374 beginning on page 33574 in the issue of Friday, September 4, 1987, make the following correction:

##### PART 177--[CORRECTED]

On page 33575, in the second column, in paragraph number 3., remove "to" from the first line, and "Subpart B" from the second line.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Part 888

[Docket No. 78N-3028]

#### Orthopedic Devices; General Provisions and Classifications of 77 Devices

##### Correction

In rule document 87-20194 beginning on page 33686 in the issue of Friday, September 4, 1987, make the following correction:

On page 33694, in the first column, in paragraph b., in the third line, "class II" should read "class I".

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### Advisory Committees; Meetings

##### Correction

In notice document 87-21425 beginning on page 35144 in the issue of Thursday, September 17, 1987, make the following corrections:

1. On page 35144, in the third column, under Cardiovascular and Renal Drugs



Advisory Committee, in the sixth line, "contract" should read "contact". Make the same correction on page 35145, in the first column, in the fifth line under Anti-Infective Drugs Advisory Committee.

2. On page 35145, in the second column, in the third complete paragraph, in the fourth line, "rimantadine" was misspelled.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 87M-0271]

#### Premarket Approval of Aerosol Services, Inc., Sterile Unpreserved Aerosol Pressurized Spray

##### Correction

In notice document 87-21421 appearing on page 35144 in the issue of

Thursday, September 17, 1987, make the following corrections:

1. In the second column, in the second complete paragraph, in the next to last line, "CFRH" should read "CDRH".

2. In the same column, in the third complete paragraph, in the ninth line, after "hearing", insert "under".

BILLING CODE 1505-01-D



# Federal Register

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Thursday  
October 1, 1987

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## Part II

## Department of Transportation

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Federal Aviation Administration  
14 CFR Part 71

Proposed Establishment of Airport Radar  
Service Areas; Notice of Proposed Rule-  
making



**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 71**

[Airspace Docket No. 87-AWA-26]

**Proposed Establishment of Airport Radar Service Areas****AGENCY:** Federal Aviation Administration (FAA), DOT.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This notice proposes to establish an Airport Radar Service Area (ARSA) at Lovell Field, Chattanooga, TN; Monterey Peninsula Airport, CA; Fresno Air Terminal, CA; and Huntsville-Madison County-Carl T. Jones Field, AL. With the exception of Fresno Air Terminal, each location is an airport at which a nonregulatory Terminal Radar Service Area (TRSA) is currently in effect. Establishment of each ARSA would require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at each of the affected locations would promote the efficient control of air traffic and reduce the risk of midair collision in terminal areas.

**DATES:** Comments must be received on or before January 7, 1988. Informal airspace meeting dates are as follows: Lovell Field, Chattanooga, TN—December 3, 1987; Monterey Peninsula Airport, CA—December 3 and 7, 1987; Fresno Air Terminal Airport, CA—December 7, 1987; and Huntsville-Madison County-Carl T. Jones Field, AL—December 2, 1987.

**ADDRESSES:** Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 87-AWA-26, 800 Independence Avenue SW., Washington, DC 20591.

The informal airspace meeting places are as follows:

Fresno Air Terminal, CA, ARSA

Date: December 7, 1987

Time: 7:00 p.m.

Location: Holiday Inn, 5090 East Clinton Avenue, Fresno, CA

Huntsville-Madison County-Carl T.

Jones Field, AL, ARSA

Date: December 2, 1987

Time: 7:00 p.m.

Location: Alabama Space and Rocket Center, Government Drive and Bob Wallace Drive, Huntsville, AL

Lovell Field, Chattanooga, TN, ARSA

Date: December 3, 1987

Time: 7:00 p.m.

Location: Tennessee Air National Guard Building, Lovell Field, Chattanooga, TN

Monterey Peninsula Airport, CA, ARSA

Date: December 3, 1987

Time: 7:00 p.m.

Location: Ingersoll Hall, Room 122, Naval Post Graduate School, Third and Sloat Avenues, Monterey, CA and

Date: December 7, 1987

Time: 7:00 p.m.

Location: Board of Supervisor's Chambers, Monterey County Court House, Second Floor, East Wing, Church and Alisal Streets, Salinas, CA

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

The informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

**FOR FURTHER INFORMATION CONTACT:**

Joe Gill, Airspace Branch (ATO-240), Airspace—Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267-9252.

**SUPPLEMENTARY INFORMATION:****Comments Invited**

This notice involves four locations. Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 87-AWA-26." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal

contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

**Availability of NPRM's**

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

**Meeting Procedures**

In addition to seeking written comments on this proposal, the FAA will hold informal airspace meetings for the proposed ARSA locations in order to receive additional input with respect to the proposal. The dates, times, and places for these meetings are listed above. Persons who plan to attend the meetings should be aware of the following procedures to be followed:

(a) The meetings will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meetings will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of the meetings is more expeditious than planned.

(c) The meetings will not be recorded. A summary of the comments made at these meetings will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meetings may be accepted. Participants submitting handout materials should present an original and two copies to the presiding officer. There should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meetings should not be taken as expressing a final FAA position.



## Agenda

Presentation of Meeting Procedures  
FAA Presentation of Proposal  
Public Presentations and Discussion

## Background

On April 22, 1982, the National Airspace Review (NAR) plan was published in the *Federal Register* (47 FR 17448). The plan encompassed a review of airspace use and procedural aspects of the ATC system. Among the main objectives of the NAR was the improvement of the ATC system by increasing efficiency and reducing complexity. In its review of terminal airspace, NAR Task Group 1-2 concluded that TRSA's should be replaced. Four types of airspace configurations were considered as replacement candidates, of which Model B, since redesignated ARSA, was the consensus recommendation.

In response, the FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas with Model B Airspace and Service" in Notice 83-9 (July 28, 1983; 48 FR 34286) proposing the establishment of ARSA's at the Robert Mueller Municipal Airport, Austin, TX, and the Port of Columbus International Airport, Columbus, OH. ARSA's were designated at these airports on a temporary basis by SPAR No. 45 (October 28, 1983; 48 FR 50038) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis.

Following a confirmation period of more than a year, the FAA adopted the NAR recommendation and, on February 27, 1985, issued a final rule (50 FR 9252; March 6, 1985) defining an ARSA and establishing air traffic rules for operation within such an area. Concurrently, by separate rulemaking action, ARSA's were permanently established at the Austin, TX, and Columbus, OH, airports and also at the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250; March 6, 1985). The FAA has stated that future notices would propose ARSA's for other airports at which TRSA procedures were in effect.

Additionally, the NAR Task Group recommended that the FAA develop quantitative criteria for proposing to establish ARSA's at locations other than those which are included in the TRSA replacement program. The task group recommended that these criteria take into account, among other things, traffic mix, flow and density, airport configuration, geographical features, collision risk assessment, and ATC capabilities to provide service to users.

This criteria has been developed and is being published via the FAA directives system.

The FAA has established ARSA's at 89 locations under a paced implementation plan to replace TRSA's with ARSA's. This is one of a series of notices to implement ARSA's at locations with TRSA's or locations without TRSA's which warrant implementation of an ARSA.

## Related Rulemaking

This notice proposes ARSA designation at four locations identified as candidates for an ARSA in the preamble to Amendment No. 71-10 (50 FR 9252). Other candidate locations will be proposed in future notices published in the *Federal Register*.

## The Current Situation at the Proposed ARSA Locations

A TRSA is currently in effect at three of the locations at which ARSA's are proposed in this notice. Fresno Air Terminal is a radar facility currently providing Stage II service. A TRSA consists of the airspace surrounding a designated airport where ATC provides radar vectoring, sequencing, and separation for all aircraft operating under instrument flight rules (IFR) and for participating aircraft operating under visual flight rules (VFR). Stage II service, with the exception of separation provides the same. TRSA airspace and operating rules are not established by regulation, and participation by pilots operating under VFR is voluntary, although pilots are urged to participate. This level of service is known as Stage III and is provided at all locations identified as TRSA's. The NAR task group recommended the replacement of most TRSA's with ARSA's.

A number of problems with the TRSA program were identified by the task group. The task group stated that because there are different levels of service offered within the TRSA, users are not always sure of what restrictions or privileges exist, or how to cope with them. According to the task group, there is a shared feeling among users that TRSA's are often poorly defined, are generally dissimilar in dimensions, and encompass more area than is necessary or desirable. There are other users who believe that the voluntary nature of the TRSA does not adequately address the problems associated with nonparticipating aircraft operating in relative proximity to the airport and associated approach and departure courses. There is strong advocacy among user organizations that terminal radar facilities should provide all pilots the same service, in the same way, and,

to the extent feasible, within standard size airspace designations.

Certain provisions of FAR § 91.87 add to the problem identified by the task group. For example, aircraft operating under VFR to or from a satellite airport and within the airport traffic area (ATA) of the primary airport are excluded from the two-way radio communications requirement of § 91.87. This condition is acceptable until the volume and density of traffic at the primary airport dictates further action.

## The Proposal

The FAA is considering an amendment to § 71.501 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish ARSA's at Lovell Field, Chattanooga, TN; Monterey Peninsula Airport, CA; Fresno Air Terminal, CA; and Huntsville-Madison County-Carl T. Jones Field, AL, which are public airports, at three of which nonregulatory TRSA's are currently in effect. The proposed locations are depicted on charts in Appendix 1 to this notice.

FAA regulations, 14 CFR 91.88, define ARSA and prescribe operating rules for aircraft, ultralight vehicles, and parachute jump operations in airspace designated as an ARSA.

The ARSA rule provides in part that, prior to entering the ARSA, any aircraft arriving at any airport in an ARSA or flying through an ARSA must: (1) Establish two-way radio communications with the ATC facility having jurisdiction over the area, and (2) while in the ARSA, maintain two-way radio communications with that ATC facility. For aircraft departing from the primary airport within the ARSA, two-way radio communications must be maintained with the ATC facility having jurisdiction over the area. For aircraft departing a satellite airport within the ARSA, two-way radio communications must be established as soon as practicable after takeoff with the ATC facility having jurisdiction over the area, and thereafter maintained while operating within the ARSA.

All aircraft operating within an ARSA are required to comply with all ATC clearances and instructions and any FAA arrival or departure traffic pattern for the airport of intended operation. However, the rule permits ATC to authorize appropriate deviations to any of the operating requirements of the rule when safety considerations justify the deviation or more efficient utilization of the airspace can be attained. Ultralight vehicle operations and parachute jumps in an ARSA may only be conducted



under the terms of an ATC authorization.

The FAA adopted the NAR task group recommendation that each ARSA be of the same airspace configuration insofar as practicable. The standard ARSA consists of airspace within 5 nautical miles of the primary airport extending from the surface to an altitude of 4,000 feet above that airport's elevation, and that airspace between 5 and 10 nautical miles from the primary airport from 1,200 feet above the surface to an altitude of 4,000 feet above that airport's elevation. Proposed deviation from the standard has been necessary at some airports due to adjacent regulatory airspace, international boundaries, topography, or unusual operational requirements.

Definitions, operating requirements, and specific airspace designations applicable to ARSA may be found in 14 CFR Part 71, §§ 71.14 and 71.501, and Part 91, §§ 91.1 and 91.88.

For the reasons discussed under "Regulatory Evaluation," the FAA has determined that this proposed regulation is not a "major rule" under Executive Order 12291 and is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

#### Regulatory Evaluation

The FAA has conducted a Regulatory Evaluation of the proposed establishment of these additional ARSA sites. The major findings of that evaluation are summarized below, and the evaluation is available in the regulatory docket.

##### a. Costs

Costs which potentially could result from the establishment of additional ARSA sites fall into the following categories:

- (1) Air traffic controller staffing, controller training, and facility equipment costs incurred by the FAA.
- (2) Costs associated with the revision of charts, notification of the public, and pilot education.
- (3) Additional operating costs for circumnavigating or flying over the ARSA.
- (4) Potential delay costs resulting from operations within the ARSA rather than a TRSA.
- (5) The need for some operators to purchase radio transceivers.
- (6) Miscellaneous costs.

It has been the FAA's experience, however, that these potential costs do not materialize to any appreciable degree, and when they do occur, they are transitional, relatively low in magnitude, or attributable to specific

implementation problems that have been experienced at a very small minority of ARSA sites. The reasons for these conclusions are presented below.

FAA expects that the additional ARSA sites proposed in this notice can be implemented without requiring additional controller personnel above current authorized staffing levels, because participation at these TRSA locations is already quite high, and the reduced separation standards permitted in ARSA's will allow controllers to absorb the slight increase in participating traffic by handling all traffic much more efficiently. Further, because controller training will be conducted during normal working hours, and existing TRSA facilities already operate the necessary radar equipment, FAA does not expect to incur any appreciable implementation costs. Essentially, the FAA will modify its terminal radar procedures at the proposed ARSA sites in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to remove TRSA airspace depictions and incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during charting cycles, and the planned effective dates for newly established ARSA's are scheduled to coincide with the regular 6-month chart publication intervals.

This rulemaking proceeding and process will satisfy much of the need to notify the public and educate pilots about ARSA operations. The informal public meeting being held at each location where an ARSA is being proposed provides pilots with the best opportunity to learn both how an ARSA works and how it will affect their local operations. The expenses associated with these public meetings are considered costs attributable to the rulemaking process; however, any public information costs following establishment of a new ARSA are strictly attributable to the ARSA. The FAA expects to distribute a Letter to Airmen to all pilots residing within 50 miles of ARSA sites explaining the operating and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately \$500 for each ARSA site. This cost is incurred only once upon the initial establishment of an ARSA.

Information on ARSA's following the establishment of additional sites will also be disseminated at aviation safety

seminars conducted throughout the country by various district offices. These seminars are regularly provided by the FAA to discuss a variety of aviation safety issues and, therefore, will not involve additional costs strictly as a result of the ARSA program.

Additionally, no significant costs are expected to be incurred as a result of the follow-on user meetings that will be held at each site following implementation of the ARSA which will allow users to provide feedback to the FAA on local ARSA operations. These meetings are being held at public or other facilities which are being provided free of charge or at nominal cost. Further, because these meetings are being conducted by local FAA facility personnel, no travel, per diem, or overtime costs will be incurred by regional or headquarters personnel.

FAA anticipates that some pilots who currently transit a TRSA without establishing radio communications or participating in radar services may choose to circumnavigate the mandatory participation airspace of an ARSA rather than participate. Some minor delay costs will be incurred by these pilots because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical mile rings. Although this will not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment (which will be offset somewhat by the descent.)

FAA recognizes that the potential exists for delay to develop at some locations following establishment of an ARSA. The additional traffic that the radar facilities will be handling as a result of the mandatory participation requirement may, in some instances, result in minor delays to aircraft operations. FAA does not expect such delay to be appreciable. FAA expects that the greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards will keep delay problems to a minimum. Those that do occur will be transitional in nature, diminishing as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the increased efficiencies due to the implementation of the ARSA. This has been the experience at most of the locations where ARSA's have been in effect for the longest period of time and is the recurring trend at the



locations that have been more recently designated.

The FAA does not expect that any operator will find it necessary to install radio transceivers as a result of establishing the ARSA's proposed in this notice. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas and, therefore, will not incur any additional costs as a result of the proposed ARSA's. Further, the FAA has made an effort to minimize these potential costs throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center where the ARSA would otherwise have extended down to the surface. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

At some proposed ARSA locations, special situations might exist where establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse impacts on local fixed base and airport operators. Similarly, the FAA has eliminated potential adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight and banner towing activities, by developing special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect that any such adverse impact will occur at the candidate ARSA sites proposed in this notice.

#### *b. Benefits*

Much of the benefit that will result from ARSA's is nonquantifiable and is attributable to simplification and standardization of ARSA configurations and procedures, which should eliminate much of the confusion currently experienced by pilots when operating in nonstandard TRSA's. Further, once experience is gained in ARSA operations, the air traffic controllers will gain greater flexibility in handling traffic within an ARSA which will enable them to move traffic more efficiently than under the current TRSA's. These expected savings may or may not offset the delay that some sites may experience after the initial establishment of an ARSA, but are expected to eventually provide overall time savings to all traffic, IFR as well as

VFR, as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports, but rather will result from the overall improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the experience at the Austin and Columbus ARSA confirmation sites, FAA estimates that near midair collisions may be reduced by approximately 35 to 40 percent. Further, FAA estimates that implementation of the ARSA program nationally may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than \$100,000, resulting from the prevention of a minor nonfatal accident between general aviation aircraft, to \$300 million or more, resulting from the prevention of a midair collision involving a large air carrier aircraft and numerous fatalities. Establishment of ARSA's at the sites proposed in the notice will contribute to these improvements in safety.

#### *c. Comparison of Costs and Benefits*

A direct comparison of the costs and benefits of this proposal is difficult for a number of reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to specifically attribute the standardization benefits, as well as the safety benefits, to individual candidate ARSA sites.

FAA expects that any adjustment problems that may be experienced at the ARSA locations proposed in this notice will only be temporary, and that once established, the ARSA's will result in an overall improvement in efficiency in terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been implemented. In addition to these operational efficiency improvements, establishment of the proposed ARSA sites will contribute to a reduction in near and actual midair collisions. For these reasons, FAA expects that establishment of the ARSA sites proposed in this notice will produce long term, ongoing benefits that will far exceed their costs, which are essentially transitional in nature.

#### *International Trade Impact Analysis*

This proposed regulation will only affect terminal airspace operating procedures at selected airports within

the United States. As such, it will have no effect on the sale of foreign aviation products or services in the United States, nor will it affect the sale of United States aviation products or services in foreign countries.

#### *Regulatory Flexibility Determination*

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that potentially could be affected by implementation of the ARSA program include the fixed-base operators, flight schools, agricultural operators and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations participation in the TRSA and radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. FAA has proposed to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites to avoid adversely impacting their operations and to simplify coordinating ATC responsibilities between the primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement between ATC and the affected airports that establish special procedures for operating to and from these airports. In this manner, FAA expects to eliminate any adverse impact on the operations of small satellite airports that potentially could result from the ARSA program. Similarly, FAA expects to eliminate potentially adverse impacts on existing flight training practice areas, as well as soaring, ballooning, parachuting, ultralight, and banner towing activities, by developing special procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. FAA has utilized such arrangements extensively in implementing the ARSA's that have been established to date.

Further, because the FAA expects that any delay problems that may initially develop following implementation of an



ARSA will be transitory, and because the airports that will be affected by the ARSA program represent only a small proportion of all the public use airports in operation within the United States, small entities of any type that use aircraft in the course of their business will not be adversely impacted.

For these reasons, the FAA certifies that the proposed regulation, if adopted, will not result in a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required under the terms of the RFA.

#### List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

#### The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

#### PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE AND REPORTING POINTS

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g)

(Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

#### § 71.501 [Amended]

2. Section 71.501 is amended as follows:

##### Fresno Air Terminal, CA [New]

That airspace within a 5-mile radius of the Fresno Air Terminal (lat. 36°46'28" N., long. 119°42'58" W.), extending upward from the surface to and including 4,400 feet MSL; and that airspace within a 10-mile radius of the airport extending upward from 1,600 feet MSL to and including 4,400 feet MSL.

##### Huntsville-Madison County-Carl T. Jones Field, AL [New]

That airspace within a 5-mile radius of the Huntsville-Madison County-Carl T. Jones Field (lat. 34°38'28" N., long. 86°46'26" W.) extending upward from the surface to and including 4,600 feet MSL; and that airspace within a 10-mile radius of the airport from the 315° T (315° M) bearing from the airport clockwise to the 187° T (187° M) bearing from the airport extending upward from 2,000 feet MSL to and including 4,600 feet MSL; and that airspace within a 10-mile radius of the airport from the 187° T (187° M) bearing from the airport clockwise to the 315° T (315° M) bearing from the airport, extending upward from 1,800 feet MSL to and including 4,600 feet MSL.

##### Lovell Field, Chattanooga, TN [New]

That airspace within a 5-mile radius of Lovell Field (lat. 35°02'07" N., long. 85°12'15" W.), extending upward from the surface to and including 4,700 feet MSL; and that

airspace within a 10-mile radius of the airport from the 350° T (351° M) bearing from the airport clockwise to the 058° T (059° M) bearing from the airport extending upward from 2,200 feet MSL to and including 4,700 feet MSL; and that airspace within a 10-mile radius of the airport from the 058° T (059° M) bearing from the airport clockwise to the 234° T (235° M) bearing from the airport extending upward from 2,600 feet MSL to and including 4,700 feet MSL; and that airspace within a 10-mile radius of the airport from the 234° T (235° M) bearing from the airport clockwise to the 350° T (351° M) bearing from the airport extending upward from 3,300 feet MSL to and including 4,700 feet MSL.

##### Monterey Peninsula Airport, CA [New]

That airspace within a 5-mile radius of the Monterey Peninsula Airport (lat. 36°35'19" N., long. 121°50'52" W.), extending upward from the surface to and including 4,200 feet MSL; and that airspace within a 10-mile radius of the airport beginning at the Pacific Ocean shoreline southwest of the airport clockwise to the 140° T (124° M) bearing from the airport extending upward from 1,500 feet MSL to and including 4,200 feet MSL; and that airspace within a 10-mile radius of the airport beginning at the 140° T (124° M) bearing from the airport clockwise to the Pacific Ocean shoreline, extending upward from 3,200 feet MSL to and including 4,200 feet MSL. The airspace contained within Restricted Area R-2511 is excluded when it is in use.

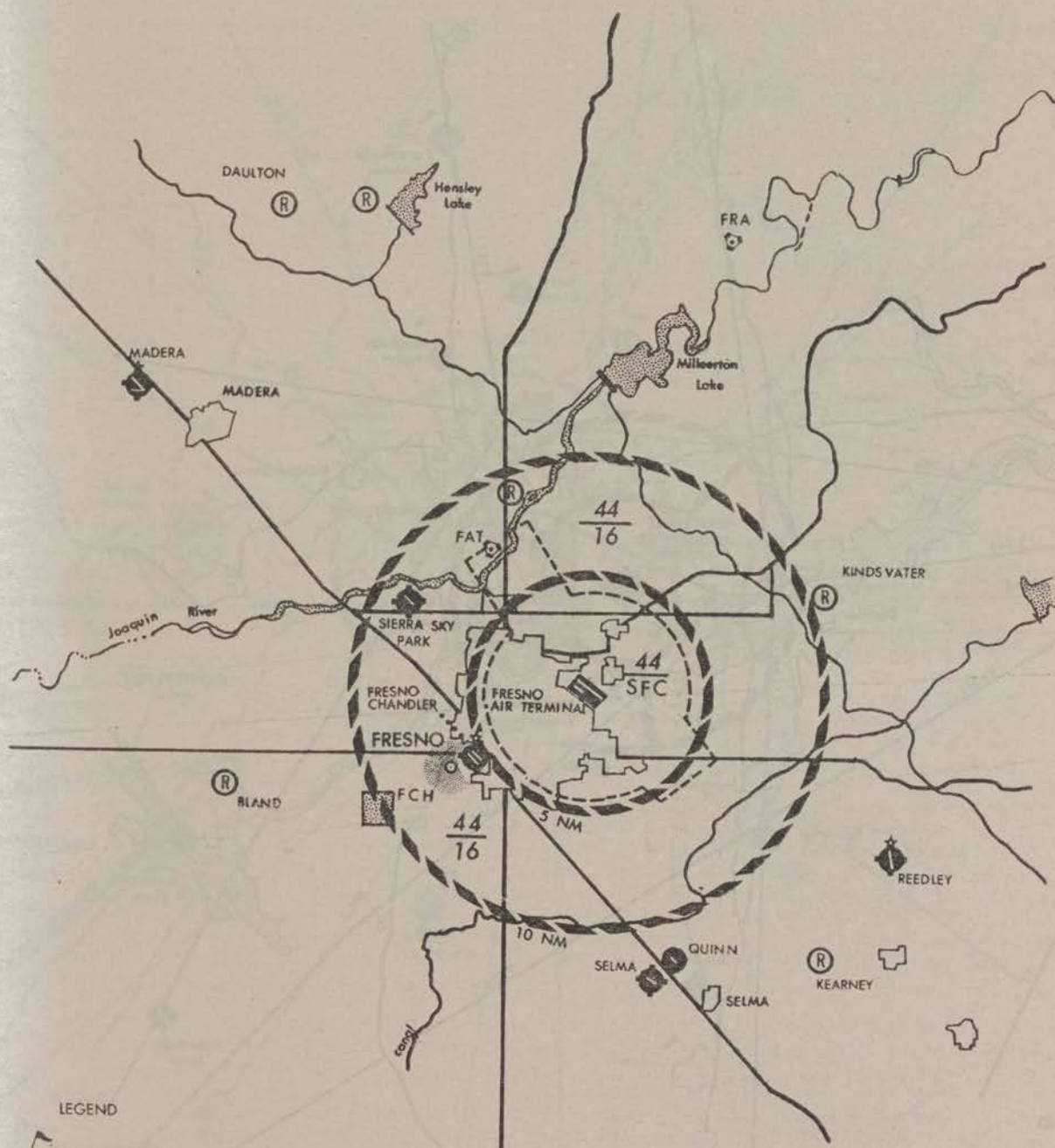
BILLING CODE 4910-13-M



# AIRPORT RADAR SERVICE AREA

(NOT TO BE USED FOR NAVIGATION)

FRESNO, CALIFORNIA  
FRESNO AIR TERMINAL  
FIELD ELEV. 332' MSL



## LEGEND

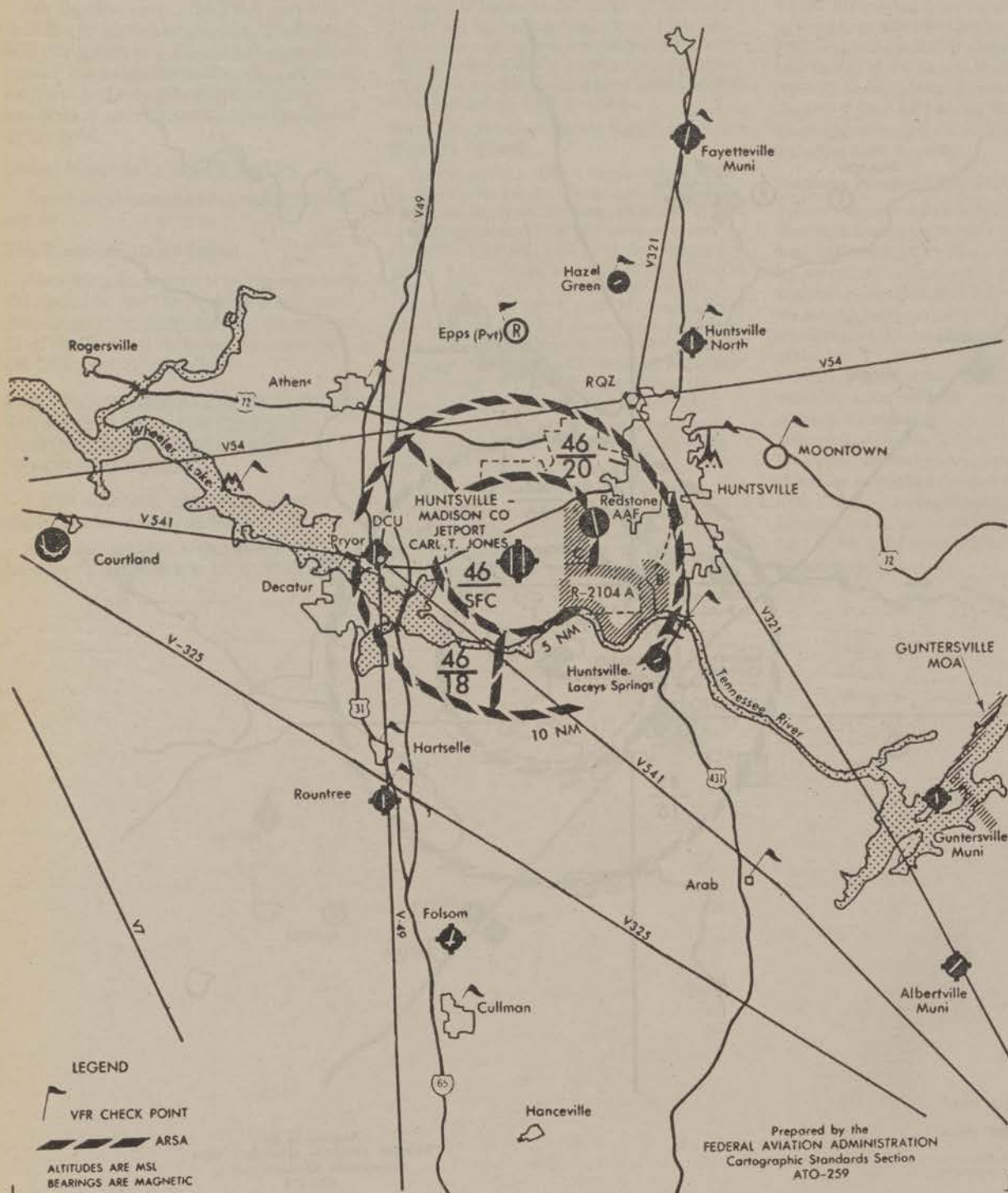
VFR CHECK POINT

ARSA

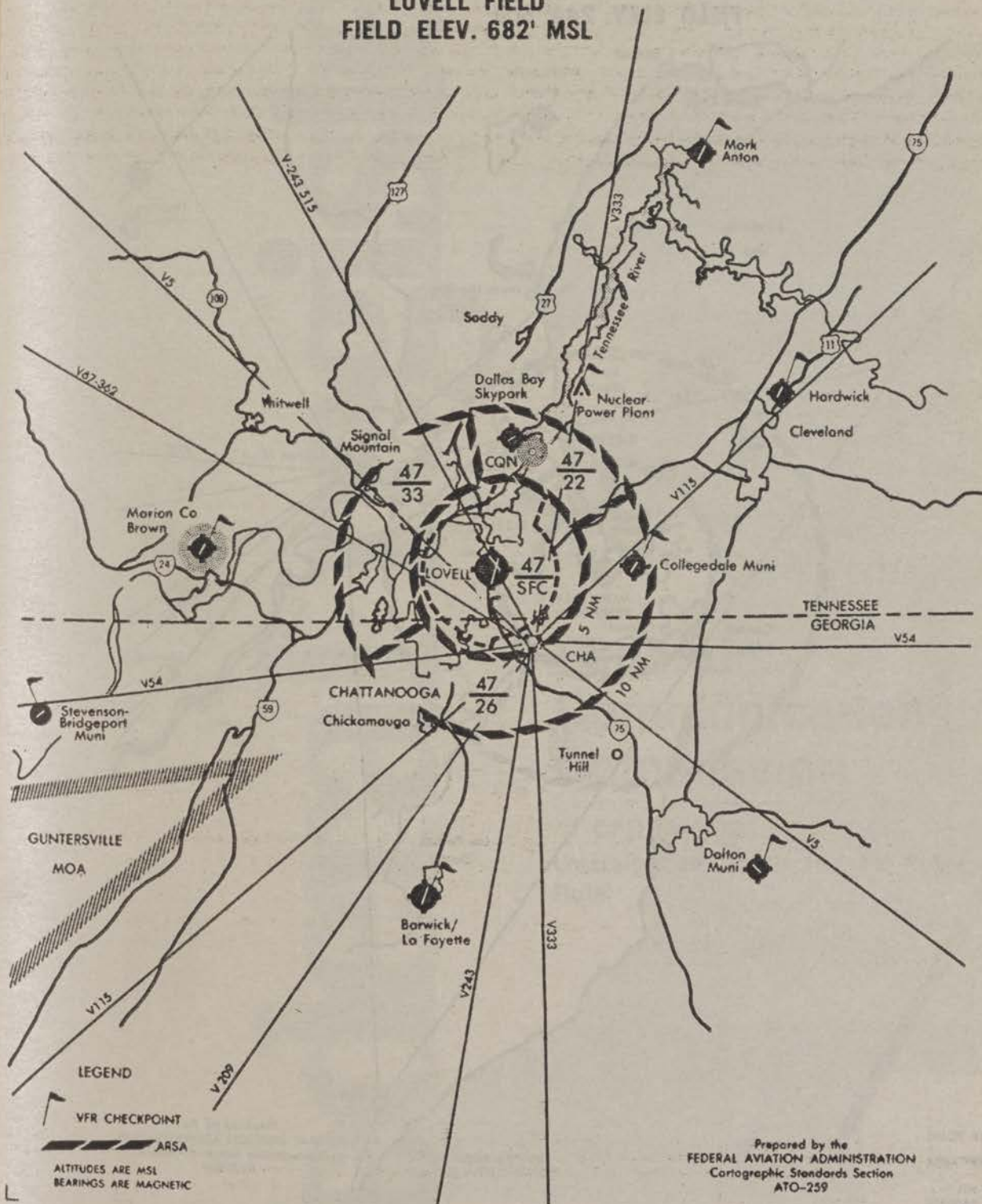
ALTITUDES ARE MSL  
BEARINGS ARE MAGNETIC

Prepared by the  
FEDERAL AVIATION ADMINISTRATION  
Cartographic Standards Section  
ATO-259



**AIRPORT RADAR SERVICE AREA**  
(NOT TO BE USED FOR NAVIGATION)**HUNTSVILLE, ALABAMA**  
**HUNTSVILLE-MADISON CO-CARL T JONES FLD**  
**FIELD ELEV. 630' MSL**

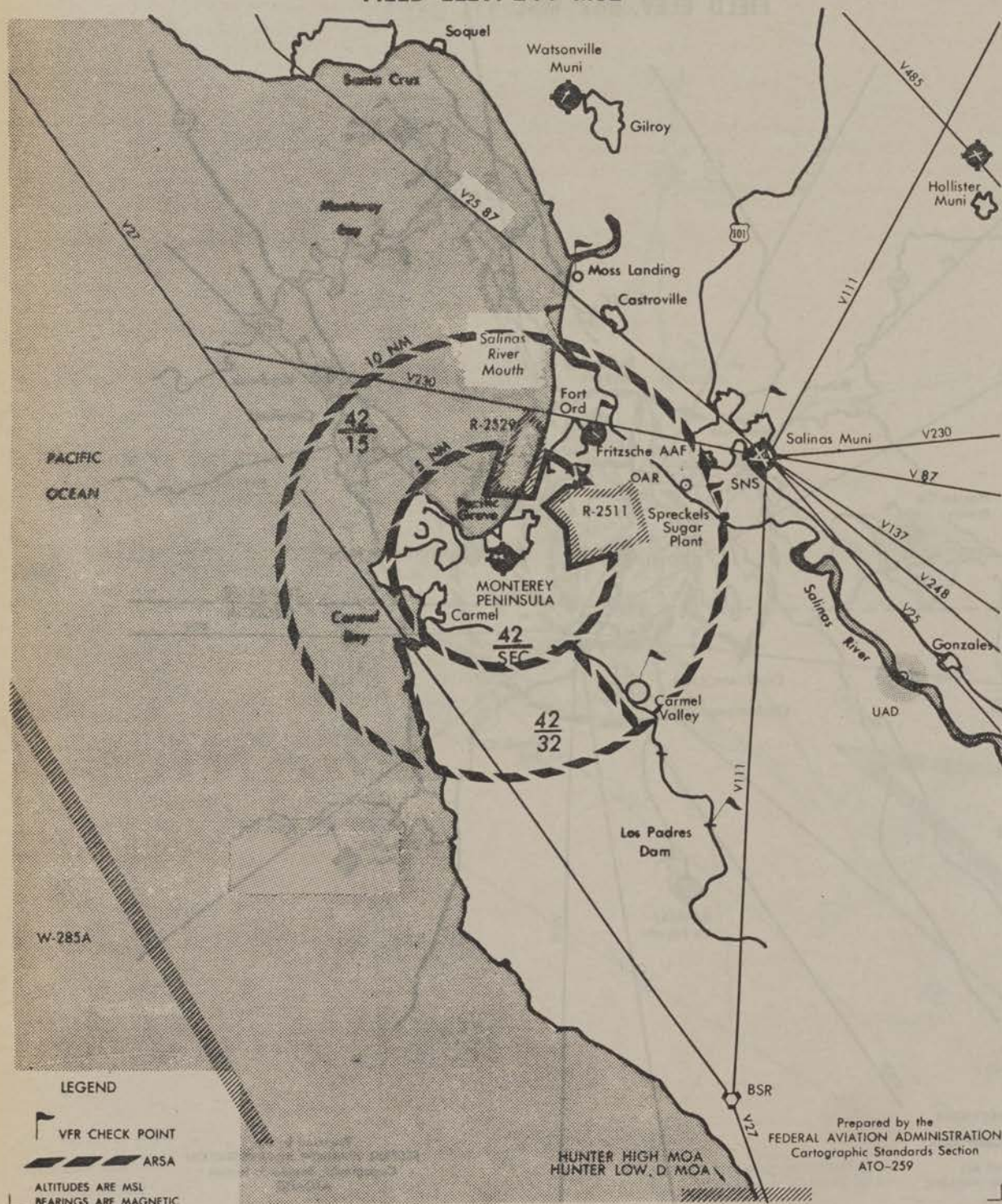


**AIRPORT RADAR SERVICE AREA**  
(NOT TO BE USED FOR NAVIGATION)**CHATTANOOGA, TENNESSEE**  
**LOVELL FIELD**  
**FIELD ELEV. 682' MSL**



**AIRPORT RADAR SERVICE AREA**

(NOT TO BE USED FOR NAVIGATION)

**MONTEREY, CALIFORNIA****MONTEREY PENINSULA AIRPORT****FIELD ELEV. 244' MSL**

Issued in Washington, DC, on September 25, 1987.

Daniel J. Peterson,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 87-22717 Filed 9-30-87; 8:45 am]

BILLING CODE 4910-13-C



# Best Deal Ever

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**Thursday  
October 1, 1987**

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## **Part III**

# **Federal Communications Commission**

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**47 CFR Part 73**

**Oversight of Radio and TV Rules; Final  
Rule**



# FEDERAL COMMUNICATIONS COMMISSION

## 47 CFR Part 73

### Oversight of Radio and TV Rules

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule.

**SUMMARY:** This Order amends broadcast regulations in 47 CFR Part 73. Amendments are made to correct, clarify or update certain technical equations, formulas and tables in the broadcast regulations.

**EFFECTIVE DATE:** October 1, 1987.

**ADDRESS:** Federal Communications Commission, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Steve Crane, Policy and Rules Division, Mass Media Bureau, (202) 632-5414.

**SUPPLEMENTARY INFORMATION:** In this Order, rule revisions are made to update, clarify and correct regulations in Title 47, Code of Federal Regulations. Adopted September 3, 1987; released September 15, 1987.

### Order

Adopted: September 3, 1987.  
Released: September 15, 1987.

In the matter of oversight of the Radio and TV Broadcast Rules.

By the Chief, Mass Media Bureau.

1. In this Order, the Commission focuses its attention on the oversight of its radio and TV broadcast rules. Modifications are made herein to update, clarify or correct certain equations, formulas and tables in the broadcast regulations as described in the following amendment summaries:

(a) In § 73.150, Directional antenna systems, paragraph (b)(1)(i) contains a number of errors and omissions in the equations and definitional text presented there. These discrepancies have been implanted or text has been lost through inadvertence or printing error. Corrections and restorations are made herein via the following amendments:

- (i) Revising the incorrectly stated mathematical expressions for the theoretical radiation pattern and the standard radiation pattern;
- (ii) Adding the missing definitional text pertaining to the method of computing Q;
- (iii) Adding the missing Equation 3; and
- (iv) Remedying certain discrepancies such as removing the square brackets in Equation 1 and replacing with vertical lines correctly signifying "absolute value"; adding the entire horizontal line

which establishes the extent of the "angle" portion of the vector in Equation 1; replacing the horizontal line which establishes the extent of the square root in Equation 2; returning the horizontal line to the square root symbol missing in the definition of Q and in Equation 4; and correcting the definition of  $E_{rss}$ , just preceding Equation  $4E(\Phi, \Theta)_{th}$ . (See rule amendment paragraph 2).

(b) There are three equations in paragraph (d) of § 73.184 which are corrected here. The designations Equation 1 and Equation 2 are repositioned to the right of the Equations instead of their present incorrect positioning, and the designation Equation 3, which is missing from the rule, is replaced and appropriately positioned to the right of that equation. Other corrections to this paragraph include adding  $\frac{1}{3}$  to the mileage formula 50/f, and revising field intensity to read field strength in the instructional text which follows the Equations. (See rule amendment paragraph 3).

(c) In the Report and Order in Mass Media Docket 84-752, Changes in Technical Rules to Reflect New International Agreements, a new paragraph (d) was adopted in § 73.190, Engineering charts and related formulas. In making the transposition from the document, as adopted by the Commission, to the Code of Federal Regulations, several inaccuracies were implanted into the new rule section. Amendments are made herein to correct these errors. (See rule amendment paragraph 4).

(d) Regulations pertaining to prediction of coverage for TV stations, § 73.684, require the use of certain field strength charts in predicting distances to the field strength contours. These charts are designated as Figures 9 and 10 in § 73.699, TV engineering charts. The rule states that "To use the charts for other powers, the sliding scale associated with the charts should be trimmed and used as the ordinate scale."

With the development of contemporary calculation procedures (i.e., calculators and computers), use of the sliding scale to predict TV coverage has come to an end. Also, the sliding scale, sometime in the past several years, has inadvertently been dropped from the Code of Federal Regulations. The lack of comment regarding its disappearance gives further proof that it is no longer used.

In using the charts to predict the distance to a given contour, we have prepared a new procedure to be used in the future. It may be used in place of the missing sliding scale directions.

Two other amendments are made to this rule via this Order: in paragraph (c),

two references are made to millivolts per meter which are corrected to read microvolts per meter. And, the equation following paragraph (c)(1) is revised to include the square root sign over the letter H (Height of antenna). (See rule amendment paragraph 5).

(e) In an Order adopted September 10, 1985, the Commission amended its rules to clarify protection provisions for the Commerce Department's Table Mountain Radio Receiving Zone at Boulder County, Colorado. FCC 85-497; 50 FR 39000, September 26, 1985.

Amendments were made to paragraph (b) of § 73.1030. This paragraph contains a Table of values of field strength and power flux densities as they pertain to certain frequency ranges. The power flux density values must be expressed in negative term (-), and each value should be shown with a negative sign preceding it. In printing the Order in the Federal Register, the negative signs were inadvertently dropped. As consequence, the Table also appeared in the Code of Federal Regulations without the negative signs. Correction is made herein to restore the negative signs to the power flux density values.

Also, in paragraph (c)(1) of this rule section, a parenthetical expression makes reference to " \* \* \* a free space characteristic impedance of 120 Ohms." The symbol pi, which belongs between 120 and Ohms, is missing. It is inserted here so that the impedance is properly stated as " \* \* \* impedance of 120  $\pi$  Ohms \* \* \* " (See rule amendment paragraph 6).

2. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions will serve the public interest.

3. These amendments are implemented by authority delegated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rulemaking, effective date provisions and public procedure thereon are inapplicable pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(3)(B).

(4) Since a general notice of rulemaking is not required, the Regulatory Flexibility Act does not apply.

(5) Accordingly, it is ordered, That pursuant to sections 4(i), 303(r) and 5(c)(1) of the Communications Act of 1934, as amended, and §§ 0.61 and 0.283 of the Commission's Rules, Part 73 is amended as set forth in the attached



Appendix, effective on the date of publication in the **Federal Register**.

(6) For further information on this Order, contact Steve Crane, Mass Media Bureau, (202) 632-5414.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

William H. Johnson,

Acting Chief, Mass Media Bureau.

#### Appendix

##### Rule Changes

47 CFR is amended to read as follows:

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154 and 303.

2. Section 73.150 (b)(1)(i) is amended by revising introductory text for equation 1 and equation 1, introductory text for equation 2 and equation 2, introductory texts for equations 3 and 4, equations 3 and 4 and definitional terms to read as follows:

#### § 73.150 Directional antenna systems.

(b) \* \* \*

(1) \* \* \*

(i) The standard radiation pattern shall be based on the theoretical radiation pattern. The theoretical radiation pattern shall be calculated in accordance with the following mathematical expression:

$$E(\phi, \theta)_{th} = \left| k \sum_{i=1}^n F_i f_i(\theta) / S_i \cos \theta \cos(\phi_i - \phi) + \psi_i \right| \quad (\text{Eq. 1})$$

where: \* \* \*

The standard radiation pattern shall be constructed in accordance with the following mathematical expression:

$$E(\phi, \theta)_{std} = 1.05 \sqrt{[E(\phi, \theta)_{th}]^2 + Q^2} \quad (\text{Eq. 2})$$

where: \* \* \*

using the metric system. For all situations prior to January 4, 1982, Q is the greater of the following quantities:

The method of computing Q will be by

$$0.025 g(\theta) E_{rss}$$

or

$$6.0 g(\theta) \sqrt{P_{kw}}$$

For all situations on or after January 4, 1982, Q is the greater of the following quantities:

$$0.025 g(\theta) E_{rss}$$

or



$$10.0 g(\theta) \sqrt{P_{kw}}$$

where.

$g(\theta)$  is the vertical plane distribution factor,  $f(\theta)$ , for the shortest element in the array (see Eq. 2, above; also see

§ 73.190, Figure 5). If the shortest element has an electrical height in excess of 0.5 wavelength,  $g(\theta)$  shall be computed as follows:

$$g(\theta) = \frac{\sqrt{\{f(\theta)\}^2 + 0.0625}}{1.030776} \quad (\text{Eq. 3})$$

$E_{rss}$  is the root sum square of the amplitudes of the inverse fields of the elements of the array in the horizontal

plane, as used in the expression for  $E(\phi, \theta)_{th}$  (see Eq. 1, above), and is computed as follows:

$$E_{rss} = k \sqrt{\sum_{i=1}^n F_i^2} \quad (\text{Eq. 4})$$

$P_{kw}$  is the nominal station power expressed in kilowatts, see § 73.14. If the nominal power is less than one kilowatt,  $P_{kw} = 1$ .

(ii) \* \* \*

3. Section 73.184 is amended by revising the text in paragraph (d) to read as follows: (the note to paragraph (d) remains unchanged):

**§ 73.184 Groundwave field strength graphs.**

\* \* \*

(d) Provided the value of the dielectric constant is near 15, the curves of Graphs 1 to 19 may be compared with experimental data to determine the appropriate values of the ground conductivity and of the inverse distance field strength at 1 kilometer. This is accomplished simply by plotting the measured fields on transparent log-log graph paper similar to that used for Graphs 1 to 19 and superimposing this chart over the graph corresponding to the frequency involved. The log-log graph sheet is then shifted vertically until the best fit is obtained with one of the curves on the graph; the intersection of the inverse distance line on the graph with the 1 kilometer abscissa on the chart determines the inverse distance field strength at 1 kilometer. For other

values of dielectric constant, the following procedure may be used for a determination of the dielectric constant of the ground, conductivity of the ground and the inverse distance field strength at 1 mile. Before the results of such determinations are submitted to the

$$\chi \cong \frac{\pi}{p} \cdot \left( R/\lambda \right)_1 \cdot \cos b \quad \text{Eq. 1}$$

$(R/\lambda)_1 =$  Number of wavelengths in 1 mile.

$$\delta_{e.m.u.} = \frac{\chi f_{MHz}}{17.9731} \cdot 10^{-14} \quad \text{Eq. 2}$$

$\delta_{e.m.u.}$  = Conductivity of the ground expressed in electromagnetic units.

$f_{MHz}$  = frequency expressed in megahertz.

$$\epsilon \cong \chi \tan b - 1 \quad \text{Eq. 3}$$

FCC, they must be converted to equivalent metric units. Graph 20 gives the relative values of groundwave field strength over a plane earth as a function of the numerical distance  $p$  and phase angle  $b$ . On graph paper with coordinates similar to those of Graph 20, plot the measured values of field strength as ordinates versus the corresponding distances from the antenna in miles as abscissae. The data should be plotted only for distances greater than one wavelength (or, when this is greater, five times the vertical height of the antenna in the case of a single element, i.e., nondirectional antenna or 10 times the spacing between the elements of a directional antenna) and for distances of less than  $50f_{MHz}$  miles (i.e., 50 miles at 1 MHz). Then, using a light box, place the sheet with the data plotted on it over the sheet with the curves of Graph 20 and shift the data sheet vertically and horizontally (making sure that the vertical lines on both sheets are parallel) until the best fit with the data is obtained with one of the curves on Graph 20. When the two sheets are properly lined up, the value of the field strength corresponding to the intersection of the inverse distance line of Graph 20 with the 1 mile abscissa on the data sheet is the inverse distance field strength at 1 mile, and the values of  $p$  and  $b$  are also determined. Knowing the values of  $b$  and  $p$ , (the numerical distance at one mile), we may substitute in the following approximate values of the ground conductivity and dielectric constant.



$\epsilon$ =dielectric constant of the ground referred to air as unity.

First solve for  $\chi$  by substituting the known values of  $p_1$ ,  $(R/\lambda)_1$  and  $\cos b$  in Equation 1. Equation 2 may then be solved for  $\delta$  and Equation 3 for  $\epsilon$ . At distances greater than  $50/f^{1/3}/\text{mHz}$  miles the curves of Graph 20 do not give the correct relative values of field strength since the curvature of the earth weakens the field more rapidly than these plane earth curves would indicate. Thus, no attempt should be made to fit experimental data to these curves at the larger distances.

$$\theta^\circ = \tan^{-1} \left( k_n \cot \frac{d}{444.54} \right) - \frac{d}{444.54}$$

Where:

$d$ =distance in kilometers  
 $n=1$  for 50% field strength values  
 $n=2$  or 3 for 10% field strength values  
 and where  
 $K_1=0.00752$   
 $K_2=0.00938$   
 $K_3=0.00565$

Note: Computations using these formulas should not be carried beyond 0.1 degree.

5. Section 73.684 is amended by revising paragraphs (c) introductory text and (c)(1) to read as follows:

**§ 73.684 Prediction of coverage.**

(c) In predicting the distance to the field strength contours, the F (50,50) field strength charts (Figures 9 and 10 of § 73.699) shall be used. If the 50% field strength is defined as that value exceeded for 50% of the time, these F (50,50) charts give the estimated 50% field strengths exceeded at 50% of the locations in dB above 1  $\mu\text{V/m}$ . The charts are based on an effective power of 1 kW radiated from a half-wave dipole in free space, which produces an unattenuated field strength at 1.61 kilometers (1 mile) of about 103 dB above 1  $\mu\text{V/m}$ . To use the charts to predict the distance to a given contour, the following procedure is used: Convert the effective radiated power in kilowatts for the appropriate azimuth into decibel value referenced to 1 kW (dBu). If necessary, convert the selected contour to the decibel value (dBu) above 1 microvolt per meter (1  $\mu\text{V/m}$ ). Subtract the power value in dBk from the contour

Note. \* \* \*

4. Section 73.190 is amended by revising paragraph (d) to read as follows:

**§ 73.190 Engineering charts and related formulas.**

(d) Figure 6a depicts angles of departure versus transmission range. These angles may also be computed using the following formulas:

value in dBu. Note that for power less than 1 kW, the difference value will be greater than the contour value because the power in dBk is negative. Locate the difference value obtained on the vertical scale at the left edge of the chart. Follow the horizontal line for that value into the chart to the point of intersection with the vertical line above the height of the antenna above average terrain for the appropriate azimuth located on the scale at the bottom of the chart. If the point of intersection does not fall exactly on a distance curve, interpolate between the distance curves below and above the intersection point. The distance values for the curves are located along the right edge of the chart.

(1) In predicting the distance to the Grade A and Grade B field strength contours, the effective radiated power to be used is that radiated at the vertical angle corresponding to the depression angle between the transmitting antenna center of radiation and the radio horizon as determined individually for each azimuthal direction concerned. The depression angle is based on the difference in elevation of the antenna center of radiation above the average terrain and the radio horizon, assuming a smooth spherical earth with a radius of 8,495.5 kilometers (5,280 miles) and shall be determined by the following equation:

$$A = 0.0277\sqrt{H}$$

Where:

$A$  is the depression angle in degrees.  
 $H$  is the height in meters of the transmitting antenna radiation center above average

terrain of the 3.2–16.1 kilometers (2–10 miles) sector of the pertinent radial.

This formula is empirically derived for the limited purpose specified here. Its use for any other purpose may be inappropriate.

6. Section 73.1030 is amended by revising paragraphs (b) introductory text and (c) introductory text to read as follows:

**§ 73.1030 Notifications concerning interference to radio astronomy, research and receiving installations.**

(b) *Radio receiving installations.*

Protection for Table Mountain Radio Receiving Zone, Boulder County, Colorado: Applicants for a station authorization to operate in the vicinity of Boulder County, Colorado under this Part are advised to give due consideration, prior to filing applications, to the need to protect the Table Mountain Radio Receiving Zone from harmful interference. These are the research laboratories of the Department of Commerce, Boulder County, Colorado. To prevent degradation of the present ambient radio signal level at the site, the Department of Commerce seeks to ensure that the field strengths of any radiated signals (excluding reflected signals) received on this 1800 acre site (within the area bounded by 40 09 10 N Latitude on the north, 105 13 31 W Longitude on the east, 40 07 05 N Latitude on the south and 105 15 13 W Longitude on the west) resulting from new assignments (other than mobile stations) or from the modification of relocation of existing facilities do not exceed the following values:

Frequency range	Field strength <sup>1</sup>	Power flux density* <sup>2</sup>
Below 540 kHz ....	10	–65.8
540 to 1600 kHz..	20	–59.8
1.6 to 470 MHz....	10	**–65.8
470 to 890 MHz....	30	**–56.2
Above 890 MHz....	1	**–85.8

<sup>1</sup> (mV/m) in authorized bandwidth of service.

<sup>2</sup> (dBW/m<sup>2</sup>) in authorized bandwidth of service.

\*Equivalent values of power flux density are calculated assuming free space characteristic impedance of  $376.7 = 120\pi$  ohms.

\*\*Space stations shall conform to the power flux density limits at the earth's surface specified in appropriate parts of the FCC rules, but in no case should exceed the above



levels in any 4 kHz band for all angles of arrival.

\* \* \* \* \*

(c) *Protection for Federal Communications Commission monitoring stations.* (1) Applicants in the vicinity of a FCC monitoring station for a radio station authorization to operate new transmitting facilities or changed transmitting facilities which would increase the field strength produced over the monitoring station in excess of that previously authorized are

advised to give consideration, prior to filing applications, to the possible need to protect the FCC stations from harmful interference. Geographical coordinates of the facilities which require protection are listed in § 0.121(c) of the FCC rules. Applications for stations (except mobile stations) which will produce on any frequency a direct wave fundamental field strength of *greater than 10 mV/m* in the authorized bandwidth of service ( $-65.8 \text{ dBW/m}^2$  power flux density assuming a free space characteristic

impedance of  $120 \pi$  ohms) at the referenced coordinates, may be examined to determine extent of possible interference. Depending on the theoretical field strength value and existing root-sum-square or other ambient radio field signal levels at the indicated coordinates, a clause protecting the monitoring station may be added to the station authorization.

\* \* \* \* \*

[FR Doc. 87-22003 Filed 9-30-87; 8:45 am]  
BILLING CODE 6712-01-M



# 5010 Federal Register

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Thursday  
October 1, 1987

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## Part IV

### Department of Health and Human Services

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Food and Drug Administration

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21 CFR Part 884

Obstetrical and Gynecological Devices;  
Contraceptive Tubal Occlusion Device  
(TOD) and Introducer; Final Rule



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

## Food and Drug Administration

## 21 CFR Part 884

[Docket No. 85N-0223]

## Obstetrical and Gynecological Devices; Effective Date of Requirement for Premarket Approval; Contraceptive Tubal Occlusion Device (TOD) and Introducer

AGENCY: Food and Drug Administration.  
ACTION: Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is requiring the filing of a premarket approval application or a notice of completion of a product development protocol for the contraceptive tubal occlusion device (TOD) and introducer, a medical device. This action is being taken under the Medical Device Amendments of 1976.

**EFFECTIVE DATE:** December 30, 1987.

**FOR FURTHER INFORMATION CONTACT:** Raju G. Kammula, Center for Devices and Radiological Health (HFZ-470), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

## SUPPLEMENTARY INFORMATION:

## I. Background

In the *Federal Register* of February 26, 1980 (45 FR 12712), FDA published a final rule classifying into class III (premarket approval) the TOD and introducer (21 CFR 884.5380). Section 884.5380 applies to any TOD and introducer that was in commercial distribution before May 28, 1976, the date of enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94-295) and to any device that FDA has found to be substantially equivalent to the TOD and introducer and that has been marketed on or after May 28, 1976. For the sake of convenience, both the devices that were on the market before May 28, 1976, and the substantially equivalent devices that were marketed on or after that date are referred to as "preamendments devices."

In the *Federal Register* of October 7, 1985 (50 FR 40950), FDA published a proposed rule to require the filing under section 515(b) of the Federal Food, and Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(b)) of a premarket approval application (PMA) or a notice of completion of a product development protocol (PDP) for the TOD and introducer. In accordance with section 515(b)(2)(H) of the act, FDA included in

the preamble to the proposal the agency's proposed findings with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the device to meet the premarket approval requirements of the act, and on the benefits to the public from use of the device (50 FR 40951). The agency provided an opportunity for interested persons to submit comments on the proposed rule and on the agency's proposed findings. Under section 515(b)(2)(B) of the act, FDA also provided an opportunity for interested persons to request a change in classification of the device based on new information relevant to its classification. Any petition requesting a change in the classification of the TOD and introducer was required to be submitted by October 22, 1985. The comment period closed on December 6, 1985.

FDA did not receive any petitions requesting a change in the classification of the device. FDA received two letters of comment on the proposed rule. One comment was from a manufacturer of the device, and the other comment was from a trade association.

Both comments focused on FDA's proposal to require carcinogenicity data for the TOD. In the proposed rule, FDA stated that, because the TOD is intended to be implanted, the long-term material integrity and safety must be established to avoid the potential risk of carcinogenicity.

1. One comment stated that TOD's are made from materials that are generally regarded as nontoxic and nontissue reactive, and that any risk of a TOD as a potential carcinogen is highly speculative and cannot be confirmed or denied. Manufacturers of TOD's should, therefore, be allowed the opportunity to address the issue on a more scientific basis. The comment suggested that a reasonable approach would be the convening of the Obstetrics and Gynecological Devices Panel (the Panel) to discuss the probable risks of TOD's as a carcinogen. If the Panel were to conclude that an unacceptably high risk of carcinogenicity is posed by TOD's, the Panel could address the issue of the proper study design to assess the carcinogenicity risk. The comment also observed that the risks associated with TOD's are no greater than those associated with other tubal sterilization procedures.

FDA disagrees with the comment. Although TOD's are made of materials that are generally thought to be biocompatible, some of the materials used in the various versions of this generic type of device may cause long-term adverse tissue reactions. TOD's are

intended to be implanted in young healthy women and remain implanted during their lifetimes. FDA believes that data should be submitted showing the long-term safety of the materials used in the TOD. FDA notes that the Panel has already discussed the overall biocompatibility of TOD's and did not find any conclusive data demonstrating that materials used in preamendments TOD's have no long-term adverse effect, such as an adverse tissue reaction (see 44 FR 19961; April 3, 1979).

2. The other comment stated that FDA's proposal to require data showing that the TOD does not present a potential for carcinogenicity is inconsistent with FDA's decision on similar devices, such as the contraceptive intrauterine device (IUD) (21 CFR 884.5360) (see 50 FR 33500, August 19, 1985; 51 FR 16648, May 5, 1986).

FDA believes that its regulatory decisions are consistent. The preamendments IUD had a material safety history from clinical use greater than 20 years. Thus, the final rule establishing an effective date of the requirement for premarket approval of the IUD (51 FR 16648; May 5, 1986), did not require submission of more data than was already available on the long-term biocompatibility of the IUD. On the other hand, little data on long-term use of the TOD are available. Under the circumstances, manufacturers of the TOD are required to provide data on long-term safety of the device.

FDA has reexamined, and finds appropriate, its proposed findings and conclusions with respect to the degree of risk of illness or injury designed to be eliminated or reduced by requiring the TOD and introducer to meet the act's PMA requirements. Accordingly, FDA is promulgating a final rule requiring premarket approval for the TOD and introducer under section 515(d)(3) of the act and is summarizing its findings with respect to: (1) The degree of risk of illness or injury designed to be eliminated or reduced by requiring the TOD and introducer to have an approved PMA or declared completed PDP, and (2) the benefits to the public from the use of the device.

## II. Findings With Respect to Risks and Benefits

## A. Degree of Risk Pregnancy—Ectopic Pregnancy

1. *Pregnancy rate.* Failure of the device to close the fallopian tube completely could result in an unwanted pregnancy. The reported data indicate that the overall risk of pregnancy for



TOD's ranges from 1 to 27 pregnancies per 100 women.

2. *Ectopic pregnancy.* The cumulative lifetime risk of ectopic pregnancy for a woman undergoing a tubal sterilization is only 2.1 per 1,000 women (which is less than the risk of ectopic pregnancy for nonsterilized women). However, 16 percent of all pregnancies occurring after tubal sterilization are ectopic.

3. *Abnormal menstrual patterns.* Recently, concern has been expressed that sterilization may be related to disturbances in menstrual patterns requiring hysterectomy or other surgical treatment. However, the published data on this subject are contradictory and inconclusive.

4. *Infections.* Infections appear to be one of the common complications associated with TOD's. Infections occur most often at the incision site and in the pelvis.

5. *Pain.* Pain is one of the most frequent complications of sterilization by TOD's.

6. *Trauma—Bleeding.* Transection of the fallopian tubes associated with mesosalpingeal bleeding is a well-known traumatic complication of female sterilization. The frequency of this complication has not been reported for tubal occlusion clips, but has been reported as 2.6 percent for the Falope Ring.

7. *Tissue toxicity.* Implanted TOD devices may contain materials which are not biocompatible, thereby producing adverse tissue reaction. Although the tubal occlusion bands and clips are made of materials that are generally thought to be biocompatible, it is possible that contaminants may be introduced during the manufacture of the device or that some of the materials may cause adverse tissue reactions that are not recognized immediately after implantation.

FDA concludes that these risks could be eliminated or reduced by requiring the TOD and introducer to undergo premarket approval.

#### B. Benefits of the Device

Female sterilization is the most popular method of fertility control for women in the United States. Female sterilization by TOD's has been reported to be relatively safe and shown to have failure rates of less than 1 per 100 women. Female sterilization by electrocoagulation, though as effective as female sterilization by TOD's, reportedly presents potential risks to health of skin, bowel, and bladder burns (see 50 FR 40952 and 40953, October 7, 1985). Many women who have completed their desired family size prefer sterilization by TOD's over

contraception from use of IUD's, oral contraceptives, or vaginal barrier contraceptives.

#### III. Final Rule

Under section 515(b)(3) of the act, FDA is adopting the proposed findings as published in the preamble to the proposed rule and is issuing a final rule to require premarket approval of the generic type of device, the TOD and introducer.

Under the final rule, a PMA or a notice of completion of a PDP is required to be filed on or before December 30, 1987, for any TOD and introducer that was in commercial distribution before May 28, 1976, or that has been found by FDA to be substantially equivalent to such a device on or before December 30, 1987. An approved PMA or a declared completed PDP is required to be in effect for any such device on or before June 28, 1988. (If FDA finds that continued availability of a device for which a PMA has been timely filed is necessary for the public health, FDA may, under section 515(d)(1)(B)(i) of the act, extend the 180-day period for taking action on the PMA.) Any TOD and introducer that was not in commercial distribution before May 28, 1976, or that has not on or before December 30, 1987, been found by FDA to be substantially equivalent to a TOD and introducer that was in commercial distribution before May 28, 1976, is required to have an approved PMA or a declared completed PDP in effect before it may be marketed.

If a PMA or a notice of completion of a PDP for a TOD and introducer is not filed on or before December 30, 1987, that device will be deemed adulterated under section 501(f)(1)(A) of the act (21 U.S.C. 351(f)(1)(A)), and commercial distribution of the device will be required to cease. The device may, however, be distributed for investigational use, if the requirements of the investigational device exemption (IDE) regulations (21 CFR Part 812) are met.

Under § 812.2(d) of the IDE regulations, FDA hereby stipulates that the exemptions from the IDE requirements in § 812.2(c) (1) and (2) will no longer apply to clinical investigations of the TOD and introducer. Further, FDA concludes that investigational TOD's and introducers are significant risk devices as defined in § 812.3(m), and advises that as of the effective date of § 884.5380(c) the requirements of the IDE regulations regarding significant risk devices will apply to any clinical investigation of a TOD and introducer. For any such device, therefore, an IDE submitted to FDA, under § 812.20, is required to be in effect under § 812.30

before an investigation is initiated or continued on or after December 30, 1987. FDA advises all persons who intend to sponsor any clinical investigation involving the TOD and introducer to submit an IDE application to FDA no later than November 30, 1987, to avoid the interruption of ongoing investigations.

#### IV. Environmental Impact

The agency has determined under 21 CFR 25.24(a)(8) and (e) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

#### V. Economic Impact

FDA has examined the economic consequences of this final rule in accordance with the criteria in section 1(b) of Executive Order 12291 and found that the rule will not be a major rule as specified in the Order. The agency believes that only four or five small firms will be affected by this rule. Therefore, the agency certifies under the Regulatory Flexibility Act (Pub. L. 96-354) that the rule will not have a significant economic impact on a substantial number of small entities. An assessment of the economic impact of this final rule has been placed on file in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Part 884 is amended as follows:

#### PART 884—OBSTETRICAL AND GYNCOLOGICAL DEVICES

1. The authority citation for 21 CFR Part 884 continues to read as follows:

Authority: Secs. 501(f), 510, 513, 515, 520, 701(a), 52 Stat. 1055, 76 Stat. 794-795 as amended, 90 Stat. 540-546, 552-559, 565-574, 576-577 (21 U.S.C. 351(f), 360, 360c, 360e, 360j, 371(a)); 21 CFR 5.10.

2. In § 884.5380 by revising paragraph (c), to read as follows:

**§ 884.5380 Contraceptive tubal occlusion device (TOD) and introducer.**

\* \* \* \* \*

(c) Date premarket approval application (PMA) or notice of



completion of a product development protocol (PDP) is required. A PMA or a notice of completion of a PDP is required to be filed with the Food and Drug Administration on or before December 30, 1987, for any TOD and introducer that was in commercial distribution before May 28, 1976, or that has on or before December 30, 1987, been found to be substantially equivalent to a TOD and introducer that was in commercial distribution before May 28, 1976. Any other TOD and introducer shall have an approved PMA or a declared completed PDP in effect before being placed in commercial distribution.

Dated: September 9, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-22651 Filed 9-30-87; 8:45 am]

BILLING CODE 4160-01-M



சென்னை நகராட்சி

# Department of Agriculture

7 CFR Part 60

## Establishment of Fees and Charges for Cotton Market News Reports; Final Rule



## DEPARTMENT OF AGRICULTURE

## Agricultural Marketing Service

## 7 CFR Part 60

## Establishment of Fees and Charges for Cotton Market News Reports

**AGENCY:** Agricultural Marketing Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** The Agricultural Marketing Service (AMS) amends 7 CFR Part 60 to add the Cotton Division to the list of Divisions collecting user fees for published market news reports. A final rule, originally published on April 8, 1983 in 48 FR 15222, authorizes the collection of fees for the distribution of copies of market news publications requested by the general public for all AMS Commodity Divisions except the Cotton Division. This rule authorizes the collection of fees from recipients of market news reports issued by the Cotton Division.

**DATE:** This rule is effective October 1, 1987.

**FOR FURTHER INFORMATION CONTACT:** Fred S. Mullins, Cotton Division, AMS, USDA, Washington, DC 20250; (202) 447-2145.

**SUPPLEMENTARY INFORMATION:** The Department implemented a final rule, 7 CFR Part 60 (48 FR 15221-15222, April 8, 1983), which provided for the collection of fees for the printing, handling and mailing of market news reports distributed by AMS pursuant to the authority contained in the Agriculture and Feed Act of 1981 (7 U.S.C. 2242a). Such fees and charges were set at a level which would cover as nearly as practicable the costs of printing, handling and postage of the market reports requested by the general public. The Department's decision to collect fees for market news reports was consistent with the Department's goal of reducing its cost of publishing and distributing publications.

Market news reports published by the Cotton Division of AMS were not included in Part 60. This rule adds the Cotton Division, AMS, to that Part and authorizes the collection of fees and charges, as determined reasonable for

reports issued by the Cotton Division, AMS, pursuant to the authority contained in 7 U.S.C. 2242a, as amended by the Food Security Act of 1985, Pub. L. 99-198.

Fees for the publications will vary from time to time due to numerous factors which affect printing, handling and distribution costs. As several of these factors (e.g. number of subscribers, postage, etc.) are not fixed, it is expected that the total costs will fluctuate from time to time. Since fees are only adjusted as necessary to recover expenses of printing, handling and distribution, the fees will be computed and revised when necessary to assure recovery of the Departmental costs and each adjustment will not be published in the *Federal Register*. Subscription renewal notices will be used to specify subscription rates. Based on estimates of current costs and activity level, fees during the initial subscription period for reports published by the Cotton Division will be charged according to the following schedule:

## REPORTS ISSUED BY COTTON DIVISION

Report	Frequency	Subscription rate in U.S. Dollars			
		Annual		Single Issue	
		United States, Canada, Mexico	Other Countries (Air Mail)	Daily, Weekly, Bi-Weekly, Monthly <sup>1</sup>	Annual
Daily Spot Cotton Quotations.....	Daily.....	115.00	175.00	1.00	
Daily Spot Cotton Quotations (Fri. only).....	Weekly.....	25.00	40.00	1.00	
Weekly Cotton Market Review.....	Weekly.....	25.00	50.00	1.00	
Weekly Report of Certificated Stock in Licensed Whses.....	Weekly.....	25.00	40.00	1.00	
Quality of Cotton Classed Under Smith-Doxey Act.....	Weekly <sup>2</sup> .....	20.00	30.00	1.00	
Cottonseed Review.....	Weekly <sup>2</sup> .....	15.00	20.00	1.00	
Cotton Fiber and Processing Test Results.....	Bi-Weekly <sup>2</sup> (plus annual).....	30.00	60.00	1.00	
	Annual only.....	10.00	15.00		10.00
Cotton Price Statistics.....	Monthly + Annual.....	30.00	60.00	1.00	
	Annual only.....	5.00	8.00		5.00
Long Staple Review.....	Monthly.....	12.00	16.00	1.00	
Cotton Linters Review.....	Monthly.....	12.00	16.00	1.00	
US Cotton Quality Rpt for Ginnings Prior to —.....	Monthly <sup>2</sup> .....	15.00	30.00	1.00	
Cotton Quality, Crop of —.....	Annual.....	10.00	12.00		10.00
Cotton Quality, Supply-Disappearance-Carryover.....	Annual.....	5.00	8.00		5.00
Cotton Varieties Planted, — Crop.....	Annual.....	5.00	8.00		5.00
Cottonseed Quality, Crop of —.....	Annual.....	5.00	8.00		5.00

<sup>1</sup> \$5.00 minimum charge.

<sup>2</sup> During harvesting.

In addition, this final rule deletes unnecessary language in § 60.5(a) and amends the authority citation. These changes are effective October 1, 1987.

A proposed rule was published in the July 23 1987 *Federal Register* (52 FR 27685). A 15 day comment period was

provided for interested persons to comment on this proposed rule. Comments were received from a cotton exchange and a trade association. Both stated that the cotton exchanges and their members who serve on the Spot Cotton Quotation Committees should

receive a copy of the Daily Spot Quotations Report free of charge because the committees donate time to provide the Cotton Division with the necessary price information. The members of the Cotton Exchanges and the Spot Cotton Quotation Committees



are cotton merchants. It has been determined that, in the interest of equity and uniform treatment with all other cotton merchants and with the participants in the other commodity programs which AMS administers, the cotton exchanges and the committees should be required to purchase their subscriptions. In addition, one commenter suggested that AMS issue one yearly order form. Such a procedure will be adopted through the subscription renewal process.

The final rule has been reviewed under USDA procedures established to implement Executive Order 12291 and Department's Regulation 1512-1 and has been determined to be a "non-major" rule because it does not meet any of the criteria established for major rules under the executive order. In conformance with the provision of the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601 *et seq.*), full consideration has been given to the potential economic impact upon small business entities. Most producers and dealers fall within the definition of "small business", as defined in the Regulatory Flexibility Act. However, a number of firms who are expected to use the market news reports do not meet the

definition of small business because of their individual size. The Administrator, Agricultural Marketing Service, has determined that this action will not have a significant economic impact upon a substantial number of small entities. This rule would in no way affect normal competition in the marketplace. It merely authorizes the collection of fees and charges for market news reports that are requested on a voluntary basis. The fees established have been set at the lowest possible level. It is further found that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because interested persons were apprised of an anticipated October 1, 1987 effective date in the proposed rule which is the beginning of the fiscal year. In addition, subscriptions to the cotton market news reports are available on a voluntary basis.

#### List of Subjects in 7 CFR Part 60

Government publication, Market news reports, Subscription fees.

Accordingly, for the reasons set forth in the preamble, 7 CFR Part 60 is amended as follows:

#### PART 60—[AMENDED]

1. The authority citation for Part 60 is revised to read as follows:

Authority: 7 U.S.C. 15b, 7 U.S.C. 1622(g), 7 U.S.C. 2242a.

2. In § 60.5 the section heading and paragraph (a) are revised to read as follows:

**§ 60.5 Market news reports published by the Cotton Division; Dairy Division; Fruit and Vegetable Division; Livestock, Meat, Grain, and Seed Division; and Poultry Division.**

\* \* \* \* \*

(a) Market news reports shall be available on an annual subscription (or seasonal subscription for reports issued by the Fruit and Vegetable Division upon written request and upon payment of a subscription fee, except that no fees will be charged to other government agencies which assist in the collection of market news data for the requested report.

\* \* \* \* \*

Date: September 30, 1987.

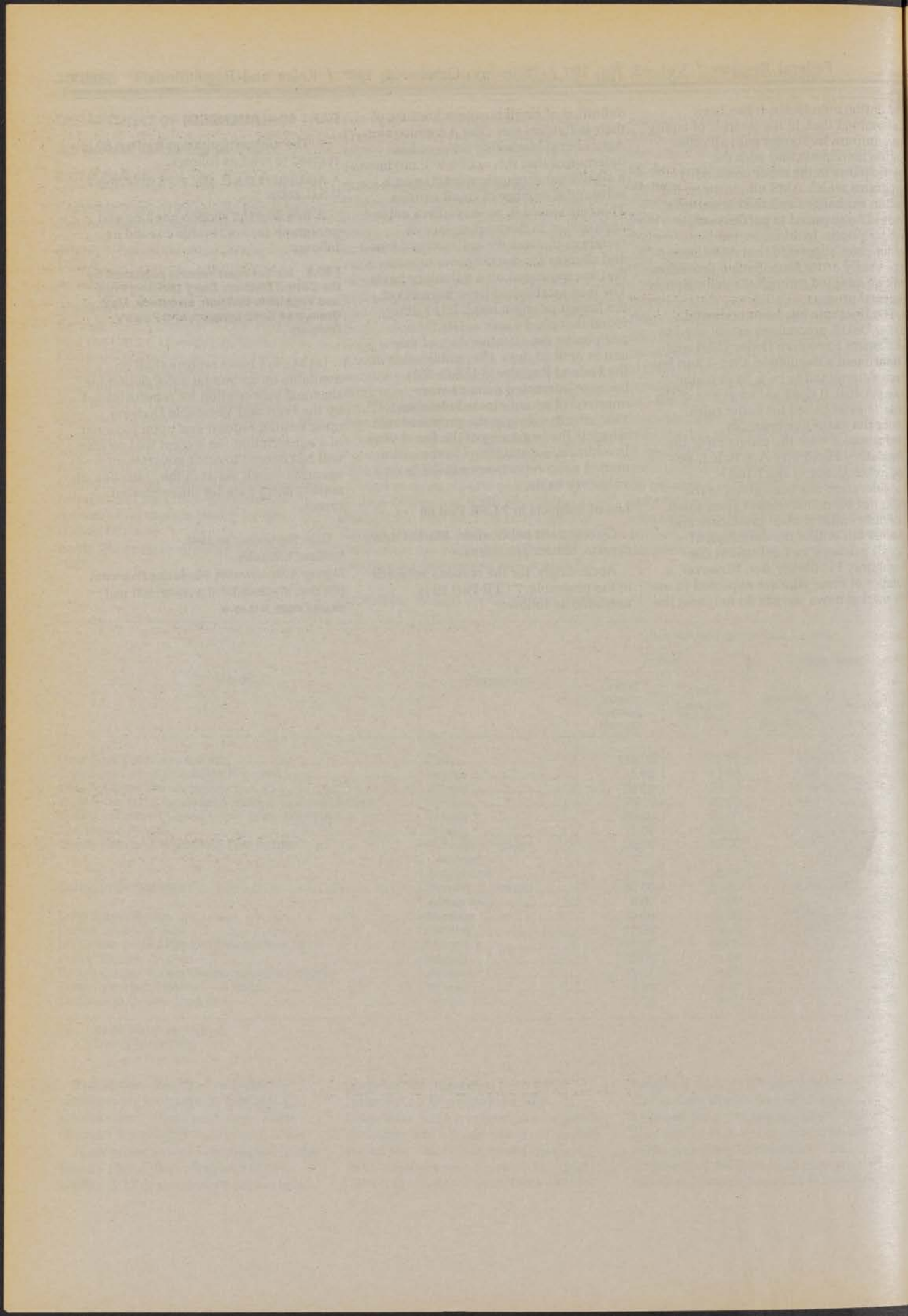
William T. Manley,

Deputy Administrator, Marketing Programs.

[FR Doc. 87-22909 Filed 9-30-87; 3:31 pm]

BILLING CODE 3410-02-M







# Reader Aids

Federal Register

Vol. 52, No. 190

Thursday, October 1, 1987

## INFORMATION AND ASSISTANCE

### SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-1184
Public laws (Slip laws)	275-3030

### PUBLICATIONS AND SERVICES

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Document drafting information	523-5237
Legal staff	523-4534
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#### Other Services

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## FEDERAL REGISTER PAGES AND DATES, OCTOBER

36749-36888.....1

## CFR PARTS AFFECTED DURING OCTOBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

## LIST OF PUBLIC LAWS

### Last List September 29, 1987

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

#### H.J. Res. 224/Pub. L. 100-116

Designating the week of October 18, 1987, through October 24, 1987, as "Benign Essential Blepharospasm Awareness Week." (Sept. 28, 1987; 101 Stat. 750; 1 page) Price: \$1.00

#### S. 1596/Pub. L. 100-117

To extend the period for waivers of State eligibility requirements to enable certain States to qualify for child abuse and neglect assistance. (Sept. 28, 1987; 101 Stat. 751; 1 page) Price: \$1.00

#### S.J. Res. 135/Pub. L. 100-118

To designate October 1987 as "Polish American Heritage Month." (Sept. 28, 1987; 101 Stat. 752; 2 pages) Price: \$1.00



**CFR ISSUANCES 1987****January-July 1987 Editions and Projected October, 1987 Editions**

This list sets out the CFR issuances for the January-July 1987 editions and projects the publication plans for the **October, 1987** quarter. A projected schedule that will include the **January, 1988** quarter will appear in the first **Federal Register** issue of January.

**For pricing information on available 1986-1987 volumes consult the CFR checklist which appears every Monday in the Federal Register.**

Pricing information is not available on projected issuances. Individual announcements of the actual release of volumes will continue to be printed in the **Federal Register** and will provide the price and ordering information. The weekly CFR checklist or the monthly List of CFR Sections Affected will continue to provide a cumulative list of CFR volumes actually printed.

Normally, CFR volumes are revised according to the following schedule:

- Titles 1-16—January 1
- Titles 17-27—April 1
- Titles 28-41—July 1
- Titles 42-50—October 1

All volumes listed below will adhere to these scheduled revision dates unless a notation in the listing indicates a different revision date for a particular volume.

\*Indicates volume is still in production.

**Titles revised as of January 1, 1987:**

Title	
CFR Index	200-End
1-2	10 Parts: 0-199
3 (Compilation)	200-399
4	400-499
	500-End
5 Parts:	11 (Revised as of July 1, 1987)
1-1199	
1200-End	
6 [Reserved]	12 Parts: 1-199
	200-299
7 Parts:	300-499
0-45	500-End
46-51	
52	13
53-209	
210-299	14 Parts:
300-399	1-59
400-699	60-139
700-899	140-199
900-999	200-1199
1000-1059	1200-End
1060-1119	
1120-1199	15 Parts:
1200-1499	0-299
1500-1899	300-399
1900-1944	400-End
1945-End	
8	16 Parts:
	0-149
	150-999
9 Parts:	1000-End
1-199	

**Titles revised as of April 1, 1987:**

Title	
17 Parts:	200-239
1-199	240-End

18 Parts:	24 Parts:
1-149	0-199
150-279	200-499
280-399	500-699
400-End	700-1699
	1700-End

19 Parts:	25
1-199	
200-End	

20 Parts:	26 Parts:
1-399	1 (\$ 1.0-1.160)
400-499	1 (\$ 1.61-1.169)
500-End	1 (\$ 1.170-1.300)
	1 (\$ 1.301-1.400)
	1 (\$ 1.401-1.500)
	1 (\$ 1.501-1.640)
	1 (\$ 1.641-1.850)
	1 (\$ 1.851-1.1000)
	1 (\$ 1.1001-1.1400)
	1 (\$ 1.1401-End)

21 Parts:	2-29
1-99	30-39
100-169	40-49
170-199	50-299
200-299	300-499
300-499	500-599 (Cover only)
500-599	600-End
600-799	
800-1299	
1300-End	

22 Parts:	27 Parts:
1-299	1-199
300-End	200-End
23	

**Titles revised as of July 1, 1987:**

Title	
28*	300-399
	400-End*
29 Parts:	35
0-99	
100-499	
500-899	36 Parts:
900-1899	1-199
1900-1910*	200-End
1911-1925	
1926	37
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30 Parts:	38 Parts:
0-199*	0-17*
200-699*	18-End*
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31 Parts:	40 Parts:
0-199	1-51*
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400-629	150-189*
630-699 (Cover only)	190-399*
700-799	400-424
800-End*	425-699
	700-End*
33 Parts:	41 Parts:
1-199*	Chs. 1-100*
200-End	Ch. 101
34 Parts:	Chs. 102-200
1-299	Chs. 201-End



## Projected October 1, 1987 editions:

## Title

42 Parts: 200-499  
 1-60 500-1199  
 61-399 1200-End  
 400-429  
 430-End

## 46 Parts:

1-40  
 41-69  
 1-999 70-89  
 1000-3999 90-139  
 4000-End 140-155

156-165  
 166-199  
 200-499

44 500-End  
 45 Parts:  
 1-199

## 47 Parts:

0-19  
 20-39  
 40-69  
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 80-End

## 48 Parts:

Ch. 1 (1-51)  
 Ch. 1 (52-99)  
 Ch. 2 (201-251)  
 Ch. 2 (252-299)  
 Chs. 3-6  
 Chs. 7-14  
 Chs. 15-End

## 49 Parts:

1-99  
 100-177  
 178-199  
 200-399  
 400-999  
 1000-1199  
 1200-End

## 50 Parts:

1-199  
 200-599  
 600-End



## TABLE OF EFFECTIVE DATES AND TIME PERIODS—OCTOBER 1987

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these

dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
October 1	October 16	November 2	November 16	November 30	December 30
October 2	October 19	November 2	November 16	December 1	December 31
October 5	October 20	November 4	November 19	December 4	January 4
October 6	October 21	November 5	November 20	December 7	January 4
October 7	October 22	November 6	November 23	December 7	January 5
October 8	October 23	November 9	November 23	December 7	January 6
October 9	October 26	November 9	November 23	December 8	January 7
October 13	October 28	November 12	November 27	December 14	January 11
October 14	October 29	November 13	November 30	December 14	January 12
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October 16	November 2	November 16	November 30	December 15	January 14
October 19	November 3	November 18	December 3	December 18	January 19
October 20	November 4	November 19	December 4	December 21	January 19
October 21	November 5	November 20	December 7	December 21	January 19
October 22	November 6	November 23	December 7	December 21	January 20
October 23	November 9	November 23	December 7	December 22	January 21
October 26	November 10	November 25	December 10	December 28	January 25
October 27	November 12	November 27	December 11	December 28	January 25
October 28	November 12	November 27	December 14	December 28	January 26
October 29	November 13	November 30	December 14	December 28	January 27
October 30	November 16	November 30	December 14	December 29	January 28